C|H|E|E|R|S® California Home Energy Efficiency Rating Services

DOCKET
08-CRI-1
DATE MAR 04 2009
RECD. MAR 09 2009

March 4, 2009

Arthur H. Rosenfeld, Ph.D.
Commissioner
California Energy Commission
Presiding Member, Efficiency Committee

Docket Number 08-CRI-1 – Complaint / Request for Investigation Regarding Energy Sense / MASCO

Dear Commissioner Rosenfeld:

California Home Energy Efficiency Rating Services is providing the enclosed documents as required by the Efficiency Committee ORDER REGARDING COMPLAINANTS' FIRST AMMENDED SUBPOENA TO PRODUCE BUSINESS RECORDS FROM The CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICE. The documents attached, to the best of my knowledge, constitute those specified in the Committee's order.

The documents have been organized according to the following groupings, as per the order:

1. Initial complaints;
2. Written communications between complainants and CHEERS/employees/agents/independent contractors re: alleged conflicts;
3. Written correspondence between Masco/Masco-related entities and CHEERS re: alleged conflicts;
4. Reports/notes/memoranda generated by CHEERS/employees/agents/independent contractors upon completion of CHEERS' investigation into alleged conflicts;
5. Correspondence between CEC and CHEERS/employees/agents/independent contractors re: alleged conflicts;
6. Documents concerning funds provided by Masco/Masco subsidiary/Masco-related entities for education/training for CHEERS raters.

In response to a previous Efficiency Committee Order, CHEERS provided copies of Rater Agreements. CHEERS has located copies of Rater Agreements with individuals who are no longer Raters and has attached them as the last set of documents, in case they might be helpful to the proceeding.

Sincerely,

Robert A. Scott, Executive Director
CHEERS

20422 Beach Boulevard – Suite 235 – Huntington Beach, California 92648
(714) 500-4440 - (714) 500-4459 FAX - WWW.CHEERS.ORG

1. Initial complaints

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Wednesday, March 19, 2008 10:33 AM
To: Robert Scott
Cc: 'Bill Lilly'; galo@energyinspectors.com
Subject: RE: MASCO update

Bill: as you can see I have forwarded to Robert Scott, this email that will express my opinion of this issue. As we discussed at the meeting at CEC headquarters in Sacramento, with Bill Pennington, Bill Staack, Tav and the new compliance associate 9sorry I have forgotten his name), It is also the concern of CHEERS as to validity of the Certification of Masco's Energy Sense Company for certification to CHEERS the Provider. It was discussed at this meeting that CHEERS has some responsibility to the CEC and the State Regs, not to certify individuals or Companies that are in violation of, or has a REAL or PERCEIVED conflict on interest in violation of the code of Title 20. Although the issue was not settled at this meeting as to whether or not there is a unique responsibility to CHEERS and that CHEERS has responsibility to judge for themselves whether or not there is a conflict, it is my belief that the meeting members and Title 20 clears allows CHEERS to distinguish or judge the matter. So if we know that Masco owns and operates the Energy Sense company, that the employees are MASCO/Energy Sense employees paid through Masco, and along with all the questions in Mr. Staack's letter, at least C HEERS has some obligation to make known its sense of things and or determine (however prematurely) a position on the details of this issue. Such as in the Sawyer/WallenAir Care case, if it is wrong action must follow. If you need this to be a formal complaint, I would hope this complies.

From: Bill Lilly [mailto:bill.lilly@califliving.com]
Sent: Wednesday, March 19, 2008 9:20 AM
To: Robert Scott
Cc: Dave Hegarty; G. LeBron; Scott Johnson
Subject: MASCO update

Robert
Thanks for talking to me this morning. I have attached the two files per our conversation. Bill Staack's letter is very informative and illustrates some issues that need to be dealt with. Per Senior Counsel for the CEC it will go to the next level a formal complaint.
Any questions please call
Bill

--
Bill Lilly
President
California Living & Energy
3015 Dale Ct
Ceres, Ca. 95307
www.califliving.com
209-538-2879 x11

No virus found in this incoming message.
Checked by AVG.
Version: 7.5.519 / Virus Database: 269.21.7/1334 - Release Date: 3/18/2008 8:52 PM

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Friday, March 21, 2008 8:40 AM
To: Robert Scott
Subject: Masco

Robert Scott: this email will express my opinion of this issue. As we discussed at the meeting at CEC headquarters in Sacramento, with Bill Pennington, Bill Staack, Tav and the new compliance associate 9sorry I have forgotten his name), It is also the concern of CHEERS as to validity of the Certification of Masco's Energy Sense Company for certification to CHEERS the Provider. It was discussed at this meeting that CHEERS has some responsibility to the CEC and the State Regs, not to certify individuals or Companies that are in violation of, or has a REAL or PERCEIVED conflict on interest in violation of the code of Title 20. Although the issue was not settled at this meeting as to whether or not there is a unique responsibility to CHEERS and that CHEERS has responsibility to judge for themselves whether or not there is a conflict, it is my belief that the meeting members and Title 20 clears allows CHEERS to distinguish or judge the matter. So if we know that Masco owns and operates the Energy Sense company, that the employees are MASCO/Energy Sense employees paid through Masco, and along with all the questions in Mr. Staack's letter, at least C HEERS has some obligation to make known its sense of things and or determine (however prematurely) a position on the details of this issue. Such as in the Sawyer/WallenAir Care case, if it is wrong action must follow. If you need this to be a formal complaint, I would hope this complies. Thanks Dave

DuctTesters
by Dave Hegarty

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Version: 7.5.519 / Virus Database: 269.21.8/1337 - Release Date: 3/20/2008 8:10 PM

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Tuesday, April 08, 2008 9:52 PM
To: Robert Scott
Subject: Title 20 1673

Robert: just to confirm that you received the change to the email and that it is a in fact now a complaint under the Title 20 1673 ((3) Complaint response system. Each provider shall have a system for receiving complaints. The provider shall respond to and resolve complaints related to ratings and field verification and diagnostic testing services and reports. Providers shall ensure that raters inform purchasers and recipients of ratings and field verifications and diagnostic testing services about the complaint system. Each provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the provider.

I am looking for a formal response to the complaint or a correspondence on how to proceed to this end. While the above quote does not directly state the issues surrounding my complaint regarding MASCO, it would appear it comes under this heading and responsibility. What do you think? Thanks Dave

DuctTesters
by Dave Hegarty

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Version: 7.5.519 / Virus Database: 269.22.9/1364 - Release Date: 4/7/2008 6:38 PM

Robert Scott

From: Robert Scott
Sent: Wednesday, April 09, 2008 9:35 AM
To: 'davehegarty@ducttesters.com'
Cc: 'Douglas Beaman'; Dawn Carton
Subject: RE: Title 20 1673

Dave:

In the email that you sent and that I am now replying to, you have asked me to "confirm that you received the change to the email and that it is a in fact now a complaint". I am not sure what email you are referring to, as I was included as a recipient in earlier one you sent with the subject "Financial Conflict of Interest".

In order to be as clear as possible, I need you to send me a single document that details the specific allegations of your complaint. Once I receive this, I will review the information with CHEERS Legal Counsel and determine further action. As you know, the CEC has been looking into this issue for about two years, before I came on board, and CHEERS has been cooperating with all of their requests.

I request that any information you can submit be provided in writing, so that the record is clear and we can address all relevant issues.

Thank you for your help and interest in ensuring a strong HERS industry.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Tuesday, April 08, 2008 9:52 PM
To: Robert Scott
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Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Wednesday, April 09, 2008 11:22 AM
To: Robert Scott
Subject: RE: Title 20 1673

Robert: thank you for your response to my latest email. And you are correct in that you were actually a recipient in the original email, but then I readdressed that same email to you directly as it relates to CHEERS and those issues. In the email it clearly spelled out my concerns and the concerns that I heard at the meeting Bill Lilly and I had at the CEC with Bill Pennington and Group. I have forwarded to you via snail mail (USPS) the same information that was given to CEC at the meeting March 12, 2008 I believe. The email I am referring to is dated March 21st , I believe. It is the one I first addressed in error to Bill Lilly and then readdressed it to you at CHEERS. I certainly do so much appreciate that CHEERS takes this and complaint issues in general seriously. My goal here is to be in compliance with the CEC rules on the Masco Matter, due to all the shifting and posturing of responsibility that has taken place. We have a serious matter at hand and it is my belief, a serious violation of CEC 1634 regulations as well as the state rules on Conflict of Interest rules for contractors as quoted in the CEC regulations under 1670 thru 1674 and so eloquently set forth in their examples throughout the CEC standards, manuals and training materials. Again, if you have not received the packet of information compiled by Bill Lilly and presented to CEC on that above mentioned date, please let me know so that I can get that to you or contact Bill Lilly's office for your copy. I will do everything in my realm to assist you with the documentation and or information you need to comply with the standards. It is significant to note that CHEERS has understood that the CEC has been working on this matter for two years, that is exactly our understanding of the matter, however CEC in our meeting would not commit to that length of time even though Bill Lilly had documents to show that very fact. Regardless, that is the nature of what we are working with, so as to not continue to make mistakes that can be misconstrued by anyone, I am crossing the T's and dotting the I's on all fronts including CHEERS. I cannot express my concern enough for that very fact that we had (you and I) this very conversation just two weeks ago and we are still issuing "informal complaint" understandings. I am requesting a formal complaint issued as to this matter (Masco working under Energy Sense, as a whole owned subsidiary of MASCO) and in what clearly, form many raters perspective is a violation of the CEC regulations regarding "CONFLICT OF INTEREST" rules in Title 20, in the RACM manual and in their examples of Conflict of Interest statements as well as training material. Even to the point of citing the other State rules governing this issue as stated in 1670 through 1674. So as you can see, each time we feel we have this nailed down as a formal complaint, either with CEC or with the Provider, under the CEC rules, we are again mistaken. I read in the Title 20 that Providers must have a "formal complaint process" and so, not knowing of CHEERS formal complaint process, I have put it in writing for CHEERS to deal with on a Formal basis. I hope that clarifies for you and CHEERS my concerns and addresses any issues that arise from this "formal process". Thanks Dave

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From: Robert Scott [mailto:rscott@cheers.org]
Sent: Wednesday, April 09, 2008 9:35 AM
To: davehegarty@ducttesters.com
Cc: Douglas Beaman; Dawn Carton
Subject: RE: Title 20 1673

Dave:

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I request that any information you can submit be provided in writing, so that the record is clear and we can address all relevant issues.

Thank you for your help and interest in ensuring a strong HERS industry.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

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by Dave Hegarty

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Version: 7.5.519 / Virus Database: 269.22.10/1367 - Release Date: 4/9/2008 7:10 AM

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Wednesday, April 09, 2008 11:49 AM
To: Robert Scott
Subject: FW: Masco

There is the original, d

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Friday, March 21, 2008 8:40 AM
To: 'Robert Scott'
Subject: Masco

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Checked by AVG.
Version: 7.5.519 / Virus Database: 269.22.10/1367 - Release Date: 4/9/2008 7:10 AM

Robert Scott

From: Robert Scott
Sent: Tuesday, April 29, 2008 8:58 AM
To: davehegarty@ducttesters.com
Subject: MASCO Complaint

Hello Dave:

I have received your formal complaint regarding Energy Sense and have initiated a proceeding to address the issues you have identified. CHEERS will provide a complete response to you, including a statement of actions that may be pursued as a result of our investigation. You should allow up to 30 days for us to respond.

Thank you for your help and interest in ensuring a strong HERS industry.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

Robert Scott

From: Robert Scott
Sent: Friday, May 02, 2008 7:09 AM
To: davehegarty@ducttesters.com
Subject: MASCO follow-up
Attachments: CHEERS letter to CEC.doc

Hello Dave:

I wanted to forward the text from a letter that the CHEERS Legal Counsel sent to the CEC. I will continue to keep you apprised as things progress.

Best Regards,

Robert A Scott, CHEERS
Executive Director

April 23, 2008

William Staack, Senior Staff Counsel
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Dear Mr. Staack:

I am legal counsel to California Home Energy Efficiency Rating Services (CHEERS), and am writing to you at the request of its board of directors. CHEERS has received a formal complaint regarding a possible conflict of interest under the California Home Energy Rating System (HERS) Program. The complaint is basically the same one addressed in detail in the enclosed letter dated May 15, 2007 from you to David R. Bell, President of EnergySense.

CHEERS requests specific guidance from the California Energy Commission regarding this important matter. If a determination has been made that a conflict of interest does or does not exist, please so advise us. If a determination has not yet been made, please advise us when it will be made.

Thank you in advance for your written response.

Best personal regards,

Carol A. Davis
CHEERS Legal Counsel

cc: William Pennington, ERDA
Tav Commins, ERDA

2. Written communications between complainants and CHEERS/employees/agents/independent contractors re: alleged conflicts

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Wednesday, February 13, 2008 7:25 PM
To: 'Bill Lilly'; 'Bill Mattinson'; 'Bill Dakin'; bretkillings@yahoo.com; 'Bert Sanchez'; airapparent@comcast.net; 'Allen Amaro'; donn@greenhomesavvy.com; donmull@ducttesters.com; DBlanke@semprautilities.com; 'Gordon Beall'; 'Gordon Beall'; golferjohn@starstream.net; geoedb@idiom.com; 'Gary Wollin'; gmahoney@cityofdavis.org; hvacconsultant@msn.com; hoffmaninsulation@yahoo.com; hersrater@sbcglobal.net; info@greatvalley.org; jamader@rhainc.com; jennifer@hersolar.com; 'Jim Wheeler'; lamader@rhainc.com; 'Linda Murphy'; 'Linda Murphy'; lsmt24@comcast.net; mikbet@sti.net; mhosier@ci.manteca.ca.us; mike@calcerts.com; mwood@cityofdavis.org; miguel@whainc.com; mart@energysoft.com; 'Pepper'; paul@northbayenergy.com; passe.jonathan@epa.gov; robhammon@consol.ws; Robert Scott
Subject: FW: FW: Masco

From: Tav Commins [mailto:Tcommins@energy.state.ca.us]
Sent: Wednesday, February 13, 2008 11:21 AM
To: DAVE HEGARTY
Subject: Re: FW: Masco

My lawyer wants to know what evidence you have that Sacramento Building Products, Western Insulation and Coast are all MASCO companies?

Tav

>>> "DAVE HEGARTY" <davehegarty@ducttesters.com> 2/7/2008 11:46 AM >>>
Tav; for your files and add one more rater as concerned for their (Masco) violation of conflict of interest. If everyone would contact the CEC about this, the issue would be brought to a head. dave

-----Original Message-----
From: George J. Nesbitt [mailto:geoedb@idiom.com]
Sent: Thursday, February 07, 2008 10:57 AM
To: DAVE HEGARTY
Cc: Tcommins@energy.state.ca.us
Subject: Re: Masco

Great job.
When I went through the 2005 update training there were several MASCO Raters in the class. I don't know if previously they only owned product manufacturing. The subject of there buying install companies came up and the conflict of Rating jobs with installations by MASCO subcontractors. I guess I now know how it was (wasn't) handled.
All MASCO HERS Verifications should be disqualified, and given to truly independent Raters.

DAVE HEGARTY wrote:

Tav: sorry this took so long to get out. I am writing you to remind you that Masco's Energy Sense is doing all of D R Horton work for Rating and that, in Manteca, they (MASCO) are rating their own work as in Sacramento Building Products installation of insulation and D R Horton's QII measures. They (Masco) are doing the rating for Western Insulation and Coast as well. All Companies owned and operated by MASCO and profits relating to these Companies flow into the MASCO conglomeration. I am in possession of evidence in the form of movies and still pictures of the work being done at D R Horton, which shows the quality of the work being done and does not meet the QII measures standards from my perspective. It is with the greatest of concern and frustration that I call your attention to this matter. It is our greatest desire to call attention to this travesty and our understanding of CEC rules and guidelines and that MASCO is being allowed to continue to RATE for themselves and the clients that they can and do sway with energy measures to capture the insulation work of those clients. Why else would Masco spend the time, energy and money to develop a portion of their business that brings the least profit to their entire business model. Their interests reside in the reduction of cost to their client (and themselves), if they are used as the rater as opposed to legitimate raters with no secondary interest, and the protection Masco gets from SELF RATING in connection with sampling. Has Masco documented any time when they have asked the installation side to REWORK or has not passed the QII measures? The pictures I have, prove at least one thing, and that is that QII is not being taken seriously by Masco when it is their own installation (when one of their own companies is doing the install). We asked the Builder to see the CF6R forms and the CF4R forms for the installation, he did not understand or recognize our request. Of course this could have been a cautious reaction to priority information, but I was convinced that he had no knowledge of the forms. It is a daily task and expense for our Rater companies to get the CF6R forms for each house under a Masco insulation contract. We struggle everyday to get them to respond to CEC rules on CF6R forms for each house to provide sample groupings and "tested" houses. It is Masco employees' knowledge that no one comes behind them to insure proper insulation installation and to fill out the CF6R for each house, just interview any onsite employee, they will let you know that never happens. Does Masco possess any documentation of failure or correction, and doesn't CEC rules and interpretations require it as a "perceived compromise" candidate.

At the very least, the quotes below are appropriate and provide a clear intent, especially under the Providers and their responsibility to "increased scrutiny" of such raters. Thanks for listening. Could CEC respond to this situation in a clear and timely manner? We appreciate your attention to this matter.

HERS raters are expected to be objective, independent, third parties when they are fulfilling

their duties as field verifiers and diagnostic testers. In this role they are serving as special

inspectors for local building departments. By law HERS raters must be independent entities

from the builder or subcontractor installer of the energy efficiency features being tested and

verified. They can have no financial interest in the installation of

the improvements. HERS

raters cannot be employees of the builder or subcontractor whose work they are verifying.

Also, HERS raters cannot have any financial interest in the builder's or contractor's business or

advocate or recommend the use of any product or service that they are verifying. Section

106.3.5 of the CBC prohibits a special inspector from being employed (by contract or other

means) by the contractor who performed the work that is being inspected

CHEERS and CalCERTS have been approved by the Energy Commission to serve as HERS

providers to certify and oversee HERS raters throughout the state. These providers are

required to provide ongoing monitoring of the propriety and accuracy of HERS raters in the

performance of their duties and to respond to complaints about HERS rater performance. In

cases where there may be real or perceived compromising of HERS rater independence, they

are responsible for providing increased scrutiny of the HERS rater, and taking action to ensure

objective, accurate reporting of diagnostic testing and field verification results, in compliance

with Energy Commission adopted procedures.

Building

Dave Hegarty

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Version: 7.5.516 / Virus Database: 269.20.4/1275 - Release Date: 2/12/2008 3:20 PM

Robert Scott

From: Bill Lilly [bill.lilly@califliving.com]
Sent: Thursday, February 14, 2008 10:03 PM
To: Tav Commins
Cc: Bill Mattinson; Bill Dakin; bretkillings@yahoo.com; Bert Sanchez; airapparent@comcast.net; Allen Amaro; donn@greenhomesavvy.com; donmull@ducttesters.com; DBlanke@semprautilities.com; Gordon Beall; golferjohn@starstream.net; geoedb@idiom.com; Gary Wollin; gmahoney@cityofdavis.org; hvacconsultant@msn.com; hoffmaninsulation@yahoo.com; hersrater@sbcglobal.net; info@greatvalley.org; jamader@rhainc.com; jennifer@hersolar.com; Linda Murphy; Linda Murphy; lsmt24 @comcast.net; mikbet@sti.net; mhosier@ci.manteca.ca.us; mike@calcerts.com; mwood@cityofdavis.org; miguel@whainc.com; mart@energysoft.com; Pepper; paul@northbayenergy.com; passe.jonathan@epa.gov; Robert Scott; Dave Hegarty; Randy Chaffey; Lexine Lilly; Larry; Jeff; Mark Gallant; G. LeBron
Subject: Masco violations

Tav
Are you Serious? That question has been answered a long time ago. Per yours and Bill Pennington's request the CEC lawyers have been involved in this for over 18 months. This investigation has been going since March 10, 2005 per our conversations at that time. Dave Bell VP of MASCO even wrote you a letter stating "Energy Sense, like MSG is a direct subsidiary of MASCO...". Tom Hamilton (this has been going on for a long time) of CHEERS asked Doug Beamon & Associates to investigate this. Doug completed his investigation turned it over to you with no major discrepancy with what I told you. also, I personally hired a Private Investigator from San Francisco to verify this. One of his conclusions was "It was determined that Masco Contractor Services owns 27 insulation companies in California, as follows: He listed all of them. (talk about a monopoly). You sent a Letter to MASCO titled "Possible Conflict...". You actually received e-mail from one of the largest Builders in the Country confirming the relationship. What about the Masco insurance cert?

On a separate but equally egregious issue was MASCO's EFL Program which Bill Pennington wrote in 2002 "Independent third party field verification is required for measures in the Standards that require such verification. The MASCO quality control process does not satisfy this requirement." I response is"da"!

there are other items we have reviewed in the past several years that illustrate their violation of the Standards.

Now, what does it take to call a violation, a violation? What more needs to be done for the California Energy Commission to act? This has dragged on for to long

sincerely

Bill Lilly

From: Tav Commins [mailto:Tcommins@energy.state.ca.us]
Sent: Wednesday, February 13, 2008 11:21 AM
To: DAVE HEGARTY
Subject: Re: FW: Masco

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DAVE HEGARTY wrote:

Tav: sorry this took so long to get out. I am writing you to remind you that Masco's Energy Sense is doing all of D R Horton work for Rating and that, in Manteca, they (MASCO) are rating their own work as in Sacramento Building Products installation of insulation and D R Horton's QII measures. They (Masco) are doing the rating for Western Insulation and Coast as well. All Companies owned and operated by MASCO and profits relating to these Companies flow into the MASCO conglomeration. I am in possession of evidence in the form of movies and still pictures of the work being done at D R Horton, which shows the quality of the work being done and does not meet the QII measures standards from my perspective. It is with the greatest of concern and frustration that I call your attention to this matter. It is our greatest desire to call attention to this travesty and our understanding of CEC rules and guidelines and that MASCO is being allowed to continue to RATE for themselves and the clients that they can and do sway with energy measures to capture the insulation work of those clients. Why else would Masco spend the time, energy and money to develop a portion of their business that brings the least profit to their entire business model. Their interests reside in the reduction of cost to their client (and themselves), if they are used as the rater as opposed to legitimate raters with no secondary interest, and the protection Masco gets from SELF RATING in connection with sampling. Has Masco documented any time when they have asked the installation side to REWORK or has not passed the QII measures? The pictures I have, prove at least one thing, and that is that QII is not being

taken seriously by Masco when it is their own installation (when one of their own companies is doing the install). We asked the Builder to see the CF6R forms and the CF4R forms for the installation, he did not understand or recognize our request. Of course this could have been a cautious reaction to priority information, but I was convinced that he had no knowledge of the forms. It is a daily task and expense for our Rater companies to get the CF6R forms for each house under a Masco insulation contract. We struggle everyday to get them to respond to CEC rules on CF6R forms for each house to provide sample groupings and "tested" houses. It is Masco employees' knowledge that no one comes behind them to insure proper insulation installation and to fill out the CF6R for each house, just interview any onsite employee, they will let you know that never happens. Does Masco possess any documentation of failure or correction, and doesn't CEC rules and interpretations require it as a "perceived compromise" candidate.

At the very least, the quotes below are appropriate and provide a clear intent, especially under the Providers and their responsibility to "increased scrutiny" of such raters. Thanks for listening. Could CEC respond to this situation in a clear and timely manner? We appreciate your attention to this matter.

HERS raters are expected to be objective, independent, third parties when they are fulfilling

their duties as field verifiers and diagnostic testers. In this role they are serving as special

inspectors for local building departments. By law HERS raters must be independent entities

from the builder or subcontractor installer of the energy efficiency features being tested and

verified. They can have no financial interest in the installation of the improvements. HERS

raters cannot be employees of the builder or subcontractor whose work they are verifying.

Also, HERS raters cannot have any financial interest in the builder's or contractor's business or

advocate or recommend the use of any product or service that they are verifying. Section

106.3.5 of the CBC prohibits a special inspector from being employed (by contract or other

means) by the contractor who performed the work that is being inspected

CHEERS and CalCERTS have been approved by the Energy Commission to serve as HERS

providers to certify and oversee HERS raters throughout the state. These providers are

required to provide ongoing monitoring of the propriety and accuracy

of HERS raters in the

performance of their duties and to respond to complaints about HERS rater performance. In

cases where there may be real or perceived compromising of HERS rater independence, they

are responsible for providing increased scrutiny of the HERS rater, and taking action to ensure

objective, accurate reporting of diagnostic testing and field verification results, in compliance

with Energy Commission adopted procedures.

Building

Dave Hegarty

No virus found in this incoming message.
Checked by AVG Free Edition.
Version: 7.5.516 / Virus Database: 269.20.4/1275 - Release Date: 2/12/2008 3:20 PM

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Checked by AVG Free Edition.
Version: 7.5.516 / Virus Database: 269.20.4/1275 - Release Date: 2/12/2008 3:20 PM

--
Bill Lilly
President
California Living & Energy
3015 Dale Ct
Ceres, Ca. 95307
209-538-2879 x11

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Thursday, February 14, 2008 12:04 PM
To: 'Tav Commins'
Subject: Masco

Tav: All the Energy Sense raters and managers use Masco email addresses. If this doesn't raise an eyebrow, then there is something wrong, and apparently CEC already knows this very fact from the email from the Energy Sense people to CEC is Masco addressed. Tax, this is becoming more and more absurd. They have a real problem if you read the CEC rules as I quoted from the CEC issued documentation. REAL or PRECEIVED wording makes them a concern either way you look at it. Dave

DuctTesters
by Dave Hegarty

No virus found in this outgoing message.
Checked by AVG Free Edition.
Version: 7.5.516 / Virus Database: 269.20.4/1277 - Release Date: 2/13/2008 8:00 PM

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Tuesday, March 11, 2008 3:24 PM
To: 'Douglas Beaman'; Robert Scott
Subject: FW: letter
Attachments: CEC_3rdparty_letter03-05-08[1].doc

Doug: I wish he would not give his opinions and demands, it would be so much better and perceived differently than the attach style he employs.

From: Bill Lilly [mailto:bill.lilly@califliving.com]
Sent: Tuesday, March 11, 2008 2:34 PM
To: Dave Hegarty
Subject: letter

Dave
FYI
This is the Introduction letter I am putting in the evidence package. Where is your office?
Thanks
Bill

--
Bill Lilly
President
California Living & Energy
3015 Dale Ct
Ceres, Ca. 95307
209-538-2879 x11

No virus found in this incoming message.
Checked by AVG.
Version: 7.5.518 / Virus Database: 269.21.7/1324 - Release Date: 3/10/2008 7:27 PM

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Checked by AVG.
Version: 7.5.518 / Virus Database: 269.21.7/1324 - Release Date: 3/10/2008 7:27 PM

Date: March 12, 2008

To: William Pennington
California Energy Commission
1516 Ninth Street
Sacramento, Ca. 95814-5512

William Staack
Senior Staff Counsel
1516 Ninth Street
Sacramento, Ca. 95814-5512

Re: Financial and Perceived Conflict of Interest under the California Home Energy Rating System (HERS) Program

Dear Sirs

Per our communication, verbal and written, since March 10, 2005 I have consistently brought to you and others at the California Energy Commission evidence of MASCO violation of the Standards as set fourth in 2005 Residential Compliance Manual and other publications. The evidence that was brought to your attention directly relates to the financial conflict and collusion between MASCO and its subsidiaries performing independent 3rd party testing. This could have been address in the beginning when the Provider contacted Douglas Beaman and Associates to investigate the conflict of interest. Like everything else their report was put on the shelf. The former Director of CHEER, Tom Hamilton stated, "As such MASCO can do what they want as long as the program does not include any HERS required verification according to the CEC guidelines". MASCO sells and installs many products on subdivisions, which creates an obvious financial conflict when they test and/or inspect those installations.

In October 2002 you wrote "Independent third party field verification is required for the Standards that require such verification. The MASCO quality control does not satisfy this requirement." Even though the subject of my question and your response is related to MASCO's EFL program the situation that started this investigation has not changed. In fact, MASCO has continued to demonstrate a blatant disregard for the Standards as set forth and passed by the California Energy Commission. California Energy Commission has stated in many different forums the concept of an independent 3rd Party Rater and how important it is for the integrity of the inspection process on new construction and to the benefit of the consumer. MASCO with its wholly owned subsidiaries has ignored this

Standard to the detriment and disregard of the homebuyer and energy conservation in California.

The purpose of our meeting is to bring documentation showing there is a financial (as well as perceived financial conflict) arrangement between MASCO and its subsidiaries therefore violating the Standards as set forth by the CEC and the State of California. This makes a mockery of the trust of the citizens of our State when a large Corporation can disregard the Standards that protect the consumer. I have divided the evidence as follows:

A1. Pulte Homes e-mail regarding MASCO Conflict of interest
A2. CEC letter to Dave Bell, President of MASCO's Energy Sense
A3. Letter to the CEC from Dave Bell
A4. Insurance certificate demonstrating financial connection between Insulation Company and MASCO
A5. Private Investigator's report on Masco Contractor Service
A6. Copy of Business card showing connection between MASCO and Sacramento Building Products
A7. Supporting e-mail with a copy of a promotion to package all of MASCO services including HERS testing.
A8. Copy of State Energy Standards MASCO violated

Based on the attached information and California's written statute the CEC needs to issue a cease and desist order to MASCO and its subsidiaries to stop all 3rd Party testing in the State of California as soon as possible.

California needs to stand up against a large Corporation like MASCO to send a message to other States such as Arizona that the consumer cannot be deceived or exploited. The fox will no longer be guarding the chicken coop.

Sincerely

Bill Lilly
President

Robert Scott

From: Bill Lilly [bill.lilly@califliving.com]
Sent: Tuesday, March 18, 2008 6:18 PM
To: Robert Scott
Subject: Fwd: Complaints and Requests for Investigation

Robert

I need to update you on what is happening with the CEC. I called and talked to Mike Bashand. Please read all of this e-mail then give me a call.

Thanks

Bill

---------- Forwarded message ----------
From: **Bill Lilly** <bill.lilly@califliving.com>
Date: Mar 18, 2008 2:23 PM
Subject: Re: Complaints and Requests for Investigation
To: Dennis Beck <Dbeck@energy.state.ca.us>
Cc: davehegarty@ducttesters.com, Bill Pennington <Bpenning@energy.state.ca.us>, Tav Commins <Tcommins@energy.state.ca.us>, William Staack <Wstaack@energy.state.ca.us>, "G. LeBron" <galo@wredco.net>, Scott Johnson <an1mph@ca.rr.com>

Dennis

Thank you for getting this to me and I will follow up. It is a sad note to find out after all of the meetings, conversation and e-mail you gave us another mountain to climb. This could of been addressed last year or the year before. I will file the documentation no latter then next week.

Per our discussion last week Bill Staack stated his letter to Dave Bell President of Energy Sense is a public document therefore it can be decimated to our Builders. Has this changed?

Sincerely

Bill

On 3/18/08, **Dennis Beck** <Dbeck@energy.state.ca.us> wrote:

Mr. Lilly -

Pursuant to our telephone conversation, I am sending you copies of Sections 1230 through 1237 of Title 20 of the California Code of Regulations, which are attached to this e-mail. These sections explain the process for filing complaints and requests for investigation with the CEC, and the procedures that follow.

If you wish to file a complaint or request for investigation, please send it to the following address:

California Energy Commission

Office of the Chief Counsel

Attn: Dennis Beck, Senior Staff Counsel

1516 Ninth Street, MS-14

Sacramento, CA 95816

Please ensure that the complaint or request for investigation includes all the information and complies with all the requirements set forth in Section 1231. If it does not, it may be dismissed as insufficient.

Thank you.

Dennis L. Beck, Jr.

Senior Staff Counsel

California Energy Commission

1516 Ninth Street, MS-14

Sacramento, CA 95814

(916) 654-3974

Dbeck@energy.state.ca.us

--
Bill Lilly
President
California Living & Energy

3015 Dale Ct
Ceres, Ca. 95307
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209-538-2879 x11

--

Bill Lilly
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3015 Dale Ct
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Robert Scott

From: Bill Lilly [bill.lilly@califliving.com]
Sent: Wednesday, March 19, 2008 9:20 AM
To: Robert Scott
Cc: Dave Hegarty; G. LeBron; Scott Johnson
Subject: MASCO update
Attachments: CEC_3rdparty_letter03-05-08[1].doc; MASCO_Conflict_of_Interest Staack-MAy15rev[1].doc

Robert

Thanks for talking to me this morning. I have attached the two files per our conversation. Bill Staack's letter is very informative and illustrates some issues that need to be dealt with. Per Senior Counsel for the CEC it will go to the next level a formal complaint.

Any questions please call

Bill

--
Bill Lilly
President
California Living & Energy
3015 Dale Ct
Ceres, Ca. 95307
www.califliving.com
209-538-2879 x11

Robert Scott

From: Bill Lilly [bill.lilly@califliving.com]
Sent: Friday, April 18, 2008 3:02 PM
To: Robert Scott
Cc: Randy Chaffey; Dawn Carton; Jeff; Francisco delgadillo
Subject: certification

Hi Robert

I hope all is well.When we talked several weeks ago you were going to check in to updating Francisco Delgadillo. I am reasonably sure he was certified several years ago. If I am wrong please let me know. Also, please recertify Jeff Chapman. I think it is heating up.

FYI

When my attorney is complete with the MASCO compliant I will send you a copy.

Have a great week end

Bill

--
Bill Lilly
President
California Living & Energy
3015 Dale Ct
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www.califliving.com
209-538-2879 x11
2007 ENERGY STAR for Homes Leadership in Housing Award Winner

Robert Scott

From:	Bill Lilly [bill.lilly@califliving.com]
Sent:	Tuesday, April 22, 2008 8:44 AM
To:	Mike Bachand; Mark Gallant; Randy Chaffey; Robert Scott; Max McKinney; airapparent@comcast.net; Allen Amaro; bretkillings@yahoo.com; Bill Dakin; Bill Mattinson; Dave Hegarty; donn@greenhomesavvy.com; Gordon Beall; golferjohn@starstream.net; G. LeBron; Gary Wollin; hvacconsultant@msn.com; hoffmaninsulation@yahoo.com; Scott Johnson; Jeff; jennifer@hersolar.com; miguel@whainc.com; paul@northbayenergy.com
Subject:	Masco conflict of interest update
Attachments:	MASCO formal CEC complaint Revised04-21-08.doc

I wanted to update everybody on where we are regarding the MASCO investigation. As most of you know Dave Hagarty and I met with Bill Pennington, Tav Commins, William Staack and Dennis Beck of the CEC. After reviewing all the evidence of MASCO's conflict of interest we were told that we have to file a formal written complaint to CEC. I have attached a rough draft of the complaint for your reading pleasure. In the complaint you will notice it refers to different attachments. These are supporting documents substantiating the complaint that was submitted to the CEC at our March meeting.

Currently, the complaint is being reviewed by the law firm of Gianelli and Associates located in Modesto, California. We requested them to review the complaint for accuracy, clarity and to address all the legal requirements in Section 1230.

While that is being done we need your help. Have any of you seen or witness a violation of the Standards by MASCO or it's subsidiaries? Do you have personal knowledge of any project they have inspected or tested where their is a possible conflict of interest? Are they installing insulation, milgard Windows etc on the project? If you know of any example that demonstrates a financial conflict of interest (see Section 1673(i)) write it out on your letterhead and mail it to us. We want to put this in the complaint. The more examples we have the stronger our case.

Other issues:

Everyone needs to read AB2678 and ask their legislator to support this bill. This bill will require energy audits at point of sale of existing homes. The Real Estate industry is vehemently opposed to this. Please call.

CBIA is supporting AB 2683 which if passed will take away some of our lien rights. As of this writing I believe this will hurt us in collecting money owed to us. Nick Cammarota of the CBIA told me this will not affect our lien rights. He also said the bill will be amended shortly, therefore it would advisable for everybody who works in new construction to go to www.senate.ca.gov click on legislation and type in 2683. You need to read and understand what is happening.

Note: if liening a specific Builder and it is not working out try attaching his bond. This is a tool if you need it. Not easy but a tool.

Thanks

Bill

--
Bill Lilly
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Robert Scott

From: Bill Lilly [bill.lilly@califliving.com]
Sent: Tuesday, April 22, 2008 2:45 PM
To: davehegarty@ducttesters.com
Cc: Mike Bachand; Mark Gallant; Randy Chaffey; Robert Scott; Max McKinney; airapparent@comcast.net; Allen Amaro; bretkillings@yahoo.com; Bill Dakin; Bill Mattinson; donn@greenhomesavvy.com; Gordon Beall; golferjohn@starstream.net; G. LeBron; Gary Wollin; Max Mc Kenny; hoffmaninsulation@yahoo.com; Scott Johnson; Jeff; jennifer@hersolar.com; Miguel; paul@northbayenergy.com
Subject: Re: Masco conflict of interest update

Dave

This is the essence of the bill:

"CAR states
that any delays increase the chance that an agreed upon sale will "come unwound" because of a lost loan lock, or the collapse of another transaction. However, this bill only requires the CEC to develop requirements for these audits and does not mandate an inspection or audit."

What I like about it is it relies on the CEC to make some decisions. I believe they want to tap energy savings in existing stock of houses.
I believe it should go further but it looks like a good start.

Bill

On Tue, Apr 22, 2008 at 10:57 AM, <davehegarty@ducttesters.com> wrote:

You may want to check out the bill that Bill is talking about here (2678) because there are several bills before our lawmakers and one of them supported by the CEC gives the Energy audit we re talking about (point of sale) to Home Inspectors not HERS raters. We dont want to support the wrong bill. Dave
Sent from my BlackBerry® wireless device

-----Original Message-----
From: "Bill Lilly" <bill.lilly@califliving.com>

Date: Tue, 22 Apr 2008 08:43:31
To:"Mike Bachand" <mike@calcerts.com>, "Mark Gallant" <mark@title-24.com>, "Randy Chaffey" <Randy.Chaffey@califliving.com>, "Robert Scott" <rscott@cheers.org>, "Max McKinney" <hvacconsultant@sbcglobal.net>, airapparent@comcast.net, "Allen Amaro" <amaroconstruction@yahoo.com>, bretkillings@yahoo.com, "Bill Dakin" <bldakin@davisenergy.com>, "Bill Mattinson" <billm@soldata.com>, "Dave Hegarty" <davehegarty@ducttesters.com>, donn@greenhomesavvy.com, "Gordon Beall" <foservices@comcast.net>, golferjohn@starstream.net, "G. LeBron" <galo@wredco.net>, "Gary Wollin" <gary@dougbeaman.com>, hvacconsultant@msn.com, hoffmaninsulation@yahoo.com, "Scott Johnson" <anlmph@ca.rr.com>, Jeff <jeff.chapman@califliving.com>, jennifer@hersolar.com, miguel@whainc.com,

paul@northbayenergy.com
Subject: Masco conflict of interest update

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Note: if liening a specific Builder and it is not working out try attaching his bond. This is a tool if you need it. Not easy but a tool.

Thanks
Bill

--
Bill Lilly
President
California Living & Energy
3015 Dale Ct
Ceres, Ca. 95307

www.califliving.com <http://www.califliving.com/>

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Robert Scott

From: davehegarty@ducttesters.com
Sent: Tuesday, April 22, 2008 10:58 AM
To: Bill Lilly; Mike Bachand; Mark Gallant; Randy Chaffey; Robert Scott; Max McKinney; airapparent@comcast.net; Allen Amaro; bretkillings@yahoo.com; Bill Dakin; Bill Mattinson; donn@greenhomesavvy.com; Gordon Beall; golferjohn@starstream.net; G. LeBron; Gary Wollin; Max Mc Kenny; hoffmaninsulation@yahoo.com; Scott Johnson; Jeff; jennifer@hersolar.com; Miguel; paul@northbayenergy.com
Subject: Re: Masco conflict of interest update

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From: "Bill Lilly" <bill.lilly@califliving.com>

Date: Tue, 22 Apr 2008 08:43:31

To:"Mike Bachand" <mike@calcerts.com>, "Mark Gallant" <mark@title-24.com>, "Randy Chaffey" <Randy.Chaffey@califliving.com>, "Robert Scott" <rscott@cheers.org>, "Max McKinney" <hvacconsultant@sbcglobal.net>, airapparent@comcast.net, "Allen Amaro" <amaroconstruction@yahoo.com>, bretkillings@yahoo.com, "Bill Dakin" <bldakin@davisenergy.com>, "Bill Mattinson" <billm@soldata.com>, "Dave Hegarty" <davehegarty@ducttesters.com>, donn@greenhomesavvy.com, "Gordon Beall" <foservices@comcast.net>, golferjohn@starstream.net, "G. LeBron" <galo@wredco.net>, "Gary Wollin" <gary@dougbeaman.com>, hvacconsultant@msn.com, hoffmaninsulation@yahoo.com, "Scott Johnson" <an1mph@ca.rr.com>, Jeff <jeff.chapman@califliving.com>, jennifer@hersolar.com, miguel@whainc.com, paul@northbayenergy.com

Subject: Masco conflict of interest update

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Thanks

Bill

--

Bill Lilly

President

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209-538-2879 x11

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Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Tuesday, April 29, 2008 10:03 AM
To: Robert Scott
Subject: RE: MASCO Complaint

Robert: We thank you and CHEERS for your attention to this matter. We believe that CHEERS has the best of intentions for Raters and that a strong HERS industry ensures our children and their children of resources and energy that otherwise would be eaten up by people and companies within the industry looking for "workarounds" to enhance bottom lines and not the full intent of the community at large under the CEC rules. We will look forward to your response and efforts concerning this matter. Dave Hegarty, DuctTesters, Inc.

From: Robert Scott [mailto:rscott@cheers.org]
Sent: Tuesday, April 29, 2008 8:58 AM
To: davehegarty@ducttesters.com
Subject: MASCO Complaint

Hello Dave:

I have received your formal complaint regarding Energy Sense and have initiated a proceeding to address the issues you have identified. CHEERS will provide a complete response to you, including a statement of actions that may be pursued as a result of our investigation. You should allow up to 30 days for us to respond.

Thank you for your help and interest in ensuring a strong HERS industry.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Thursday, May 01, 2008 6:43 PM
To: 'Douglas Beaman'; Robert Scott; 'Gary Talbott'
Subject: FW: Masco

From: Bill Lilly [mailto:bill.lilly@califliving.com]
Sent: Thursday, May 01, 2008 11:18 AM
To: G. LeBron
Cc: Scott Johnson; Dave Hegarty; Jeff
Subject: Re: Masco

Galo
Your point is well taken. Jeff Chapman in our office will be at the meeting tomorrow. I will ask him to address this point, if possible, during the meeting. I believe the point to be made is the separation stated on Page 63 is the best way to maintain the integrity of HERS phase II. This should be the same for new construction in California.

If any you have some concepts or a different perspective of what I stated e-mail them to Jeff.

Bill

On Thu, May 1, 2008 at 6:25 AM, G. LeBron <galo@wredco.net> wrote:

By the way, with regards to the Masco issue, I was reading the CEC HERS May 2008 document that is being discussed at the meeting tomorrow, and I noticed the following statement on Page 63. Though this seems to apply to existing homes, it mirrors their policy with regards to new homes ratings (though I still want to get further clarification on the performance contracting exception). Perhaps they have not read their own statements.....

Separation of HERS Raters from Home Improvement Services

As mentioned in the previous section, California statute prevents home inspectors from engaging in home improvements for homes they have inspected (for a home transaction) for a period of 12 months. In addition, the HERS regulations for Title 24 compliance field verification (see Title 20 §1673(i)) require that HERS providers be financially independent from HERS raters and that both providers and raters be financially independent from the builder or the contractor responsible for home improvements. An underlying policy with the California HERS program is that the organization or person doing the rating should not be financially associated with a company or organization that is in the business of making money on home improvements.

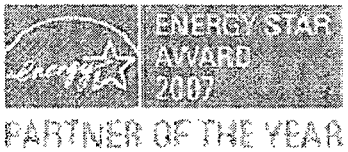
RESNET has a different method of consumer protection. RESNET providers and raters may have a

financial interest in the builder or home improvement contractor, as long as this information is disclosed. Figure 34 is a form used by RESNET raters to disclose this information.

The Commission believes it is important to address conflict of interest by maintaining separation of financial interests between raters and home improvement contractors except in the special case of Building Performance Contractors.

Galo LeBron

Energy Inspectors



--
Bill Lilly
President
California Living & Energy
3015 Dale Ct
Ceres, Ca. 95307
www.califliving.com
209-538-2879 x11
2007 ENERGY STAR for Homes Leadership in Housing Award Winner

Robert Scott

From: davehegarty@ducttesters.com
Sent: Friday, May 02, 2008 7:32 AM
To: Robert Scott; Doug Beaman
Subject: Fw: Masco
Attachments: image005.gif; image008.jpg; image006.gif

Sent from my BlackBerry® wireless device

-----Original Message-----

From: "Bill Lilly" <bill.lilly@califliving.com>

Date: Thu, 1 May 2008 11:18:25

To:"G. LeBron" <galo@wredco.net>

Cc:"Scott Johnson" <an1MPH@ca.rr.com>, "Dave Hegarty" <davehegarty@ducttesters.com>, Jeff <jeff.chapman@califliving.com>

Subject: Re: Masco

Galo

Your point is well taken. Jeff Chapman in our office will be at the meeting tomorrow. I will ask him to address this point, if possible, during the meeting. I believe the point to be made is the separation stated on Page 63 is the best way to maintain the integrity of HERS phase II. This should be the same for new construction in California.

If any you have some concepts or a different perspective of what I stated e-mail them to Jeff.

Bill

On Thu, May 1, 2008 at 6:25 AM, G. LeBron <galo@wredco.net <mailto:galo@wredco.net> > wrote:

By the way, with regards to the Masco issue, I was reading the CEC HERS May 2008 document that is being discussed at the meeting tomorrow, and I noticed the following statement on Page 63. Though this seems to apply to existing homes, it mirrors their policy with regards to new homes ratings (though I still want to get further clarification on the performance contracting exception). Perhaps they have not read their own statements…..

Separation of HERS Raters from Home Improvement Services

As mentioned in the previous section, California statute prevents home inspectors from engaging in

home improvements for homes they have inspected (for a home transaction) for a period of 12

months. In addition, the HERS regulations for Title 24 compliance field verification (see Title 20

§1673(i)) require that HERS providers be financially independent from HERS raters and that both

providers and raters be financially independent from the builder or the contractor responsible for

home improvements. An underlying policy with the California HERS program is that the

organization or person doing the rating should not be financially associated with a company or

organization that is in the business of making money on home improvements.

RESNET has a different method of consumer protection. RESNET providers and raters may have a

financial interest in the builder or home improvement contractor, as long as this information is

disclosed. Figure 34 is a form used by RESNET raters to disclose this information.

The Commission believes it is important to address conflict of interest by maintaining separation of

financial interests between raters and home improvement contractors except in the special case of

Building Performance Contractors.

Galo LeBron

Energy Inspectors

--

Bill Lilly

President

California Living & Energy

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Ceres, Ca. 95307

www.califliving.com <http://www.califliving.com>

209-538-2879 x11

2007 ENERGY STAR for Homes Leadership in Housing Award Winner

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Wednesday, May 14, 2008 2:24 PM
To: Robert Scott
Subject: Masco

What's up with the Masco situation, have you heard anything or should I keep my mouth shut for a while longer? Dave

DuctTesters "Verifying Energy Efficiencies Accurately"

Dave Hegarty
Principle

DuctTesters
615 13th Street
Modesto, California 95354

davehegarty@ducttesters.com
AIM: davedbhgrty

tel: 209 579-5000
mobile: 209 595-8000

Robert Scott

From: Robert Scott
Sent: Thursday, May 15, 2008 8:02 AM
To: davehegarty@ducttesters.com
Subject: RE: Masco

Hello Dave:

I was out yesterday, thus my late reply.

I would appreciate your confidence a bit longer. It is a bit more complicated because the CEC says they have not received any official or formal complaint and have no guidance for us on the issue. This is an important issue that I want to resolve and it high on my list. The CHEERS attorney is not available until next week therefore I am unable to get counsel on the matter until then.

Best Regards,

Robert A Scott, CHEERS
Executive Director

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Wednesday, May 14, 2008 2:24 PM
To: Robert Scott
Subject: Masco

What's up with the Masco situation, have you heard anything or should I keep my mouth shut for a while longer? Dave

DuctTesters "Verifying Energy Efficiencies Accurately"

Dave Hegarty
Principle

DuctTesters
615 13th Street
Modesto, California 95354

davehegarty@ducttesters.com
AIM: davedbhgrty

tel: 209 579-5000
mobile: 209 595-8000

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Friday, May 16, 2008 12:37 PM
To: 'Bill Lilly'; 'Scott Johnson'; galo@energyinspectors.com; 'John Richau'; 'Rosie Smith'
Subject: Masco

Bill: Apparently CEC is sitting on any Masco action at all unless they receive a formal request for investigation. Nothing more has been done to this date by the CEC and they fully intend to do nothing until they receive said request. The clock does not start ticking until they receive the request in writing and of a formal nature. With that being said, how far out are you from submitting the "formal request"? If it is going to be a while longer, I would like to suggest that I work up or someone, work up a formal request to start the clock. Just such a written request is in fact not the law and they are trying to outlast the situation. In the letter to them I suggest the date of our meeting be identified and their (CEC) their letter and date. I further suggest that the AG's office be contacted as to the situation and the failure of the CEC to act on a violation or possible violation with blatant disregard. If it is going to be more than a week or two for your letter to the CEC would you mind please notifying me or all of us so that we can at least discuss this option. Thanks Bill,
Dave

ductTesters "Verifying Energy Efficiencies Accurately"

Dave Hegarty
Principle

davehegarty@ducttesters.com
AIM: davedbhgrty

DuctTesters
615 13th Street
Modesto, California 95354

tel: 209 579-5000
mobile: 209 595-8000

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Friday, May 16, 2008 1:27 PM
To: Robert Scott; 'Douglas Beaman'
Subject: FW: CalHERS

From: Max McKinney [mailto:hvacconsultant@sbcglobal.net]
Sent: Friday, May 16, 2008 12:42 PM
To: 'John Richau'
Cc: 'Debbie Thompson'; 'George J. Nesbitt'; 'HER Solar'; 'Tommy Young'; info@app-techinc.com; 'Max McKinney'; davehegarty@ducttesters.com; Mike Bachand
Subject: RE: CalHERS

Hello ALL,

PLEASE, this information is confidential! DO NOT COMMUNICATE THIS INFORMATION TO ANYONE ELSE!!!

Remember: "loose lips sinks ships"!!

We may have had an opportunity to get CEC to take action on the "conflict of interest" issue. But distributing specific information may have closed the door, since this will take time and effort to build a case. Masco could easily discredit the situation before we finish compiling the evidence we will need to persuade CEC to take action (and put in writing) regulations and enforcement protocols.

In the future, if someone is working on an enforcement issue with CEC, PLEASE, contact that individual, for permission, before broadcasting to the masses. We will not get many chances to provide hard evidence that CEC will take seriously. We can not afford to have these opportunities slip through our fingers because the guilty entity hears about a possible inquiry.

Thanks,

Max McKinney
EACS Inc.
916-698-4185

From: John Richau [mailto:john@certified-ec.com]
Sent: Friday, May 16, 2008 8:42 AM
To: john@certified-ec.com
Cc: Debbie Thompson; George J. Nesbitt; 'HER Solar'; 'Tommy Young'; info@app-techinc.com; 'Max McKinney'; davehegarty@ducttesters.com
Subject: CalHERS

Hello all,

I've actually performed 7 duct tests, 4- energy audits (or is it analyses?) and 4 NSHP field verifications since becoming a HERS rater in February. While I've learned a lot about the testing, I've learned more than I'd like to know about the system.

Tommy wrote about a recent experience with MASCO...

"Had a QII inspection on Tuesday that could've turned into a fist-fight. The insulating contractor (MASCO, of all people!!!) came charging at me and what are the very first words out of his mouth.... "So, Tom, how long

have you been a Rater?" It went downhill from there. "It looks perfect to me. We do QII ALL THE TIME" (it was batts & it wasn't QII worthy.... it's near impossible) We're walking with the developer and he says " Sometimes a Rater will purposely push in a batt to make us look bad,. Ya they'll fluff it up just to make it look like they're actually doing something" I just waited till I got home to fail them."

"...So check this.... the contractor who I was gonna fail on QII found another rater who said they were golden and passed them. Problem? we already had a SIGNED contract.... so Max called CEC in to put the kaibosh on that. You can't switch raters when they fail you. It's getting ugly and I'm getting pissed and starting to want to make this personal. I bet MASCO said " I know a rater... this is easy!" There is no way they were going to pass. No way.

Attached are comments to the CEC from Patrick Splitt of Apptech in Santa Cruz. Interesting report on Title 24 compliance. Thanks Tommy for the link.

CalHERS is not dead, folks. George, I'll send you the letter to PGE and we'll get at least 10 HERS raters to sign it. Edit away.

Cheers,

John

John Richau
HERS Rater
Certified Energy Consulting
Office: 559-226-1840
Cell: 559-960-7899
FAX: 559-222-5756
Toll Free FAX 888-488-8804
http://certified-ec.com
CHEERS# CCN92655125

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Wednesday, June 04, 2008 5:51 PM
To: 'Douglas Beaman'; Robert Scott
Subject: FW: Attorney's Masco letter
Attachments: MASCO Complaint.doc

-----Original Message-----

From: Bill Lilly [mailto:bill.lilly@califliving.com]

Sent: Wednesday, June 04, 2008 12:13 PM

To: Dave Hegarty; G. LeBron; Scott Johnson

Subject: Attorney's Masco letter

Gentleman

I am forwarding the revised compliant letter for your perusal along with some comments from my attorney. Per his suggestion, I will go through and cross out every name I do not have permission to use. When that is done I send all of you a copy of the evidence to be submitted to the CEC. After your review and you are in agreement I will ask you to sign on to the complaint.

What I am sending to you is privilege information. The letter will not be dispersed to everybody until all of us are in agreement.

Thanks

Bill

How does "HERS Advocates" sound?

---------- Forwarded message ----------

From: Brett Dickerson <BDickerson@gianelli-law.com>

Date: Wed, Jun 4, 2008 at 11:55 AM

Subject: RE: Masco letter

To: Bill Lilly <bill.lilly@califliving.com>

Hi, Bill:

Here it is. I have added the information you sent on Friday and have pulled out some of the quotes, as we discussed.

You will need to incorporate an address to the commission, etc at the beginning.

As we discussed in the office, one of my concerns is insuring that you do not essentially "throw anyone under the bus" when you identify them or provide copies of documents that were not originally addressed to you or may have been sent to you in confidence. You have an awful lot of documents here that I have not been able to review in detail to opine with any confidence as to violations of confidence, etc. Again I cannot advise you strongly enough to insure that people you are using to make your case know of that use and that you are providing copies of e-mails and letters to the Commission that were not originally intended to be used for these purposes. The last thin you want to do is create enemies out of friends. Masco may not take this lying down so you do not need to have battles on multiple fronts.

Give me a call this afternoon if you wish to discuss, We may want to look into section 1231(b)(7) and add some names of other entities who may be affected by the Commission's decision.

Thx.

BLD

-----Original Message-----

From: Bill Lilly [mailto:bill.lilly@califliving.com]

Sent: Wednesday, June 04, 2008 11:06 AM

To: Brett Dickerson

Subject: Masco letter

Brett

I need that letter regarding MASCO today. I have to turn it in.

Thanks

Bill

--

Bill Lilly

President

California Living & Energy

3015 Dale Ct

Ceres, Ca. 95307

www.califliving.com

209-538-2879 x11

2007 ENERGY STAR for Homes Leadership in Housing Award Winner

--

Bill Lilly

President

California Living & Energy

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2007 ENERGY STAR for Homes Leadership in Housing Award Winner

I. Identification of Alleged Violator [§1231(b)(2) & (7)]

Energy Sense/MASCO Group of Companies and Subsidies
2339 Belville Road
Daytona Beach, FL 32119
Phone (386) 763-4955
David Bell, Building Science Manager
Email: dave.bell @mascocs.com

As you are aware for previous correspondence, Energy Sense is a subsidiary of MASCO Corporation. Due to the nature of this relationship, there is a significant financial interest shared between the two entities. This relationship is confirmed within the "Report of Investigation on MASCO Contractors Services and its subsidiaries in California" attached hereto as *Exhibit A5* and the letter from Dave Bell, President of Energy Sense, attached hereto as Exhibit A3

II. Statement of Statute, Regulation, Order or Decision Upon Which the Complaint is Based [§1231(b)(4)]

In accordance with Section 1231(4) of Title 20 of the California Code of Regulations Article , we submit that MASCO and Energy Sense are in violation or several relevant Codes and Statutes and ordinances, including, but not limited to, California Code of Regulations,
§§ 1670 thru 1673 & Title 24, Chapter 7 of the 2005 Residential ACM Manual ("2005 ACM"). Based upon these violations, we formally request an immediate investigation of the above-described companies.

III. Statement of Facts [§ 1231(b)(3)]

The following is a non-exhaustive list of specific instances in which MASCO and its subsidiaries have violated the requirements of sections 7.3, 7.4, 7.5, 7.5.1, 7.5.2, 7.5.3, 7.6 & 7.8 of the 2005 ACM.

A. In 2006, a MASCO owned company, Coast Building Products, received contracts to perform independent 3rd party inspections while also receiving contracts to install insulation, fireplace mantels, garage doors, etc on Pulte Home Project Alturas in San Jose and the Avondale and Toscana projects in Mountain House (See Exhibit A1 attached hereto and incorporated herein by reference)

B. On March 5, 2007, Pulte Homes issued a report regarding work being done on their projects. In this report, they have identified MASCO as performing some of the Energy Star and Title-24 inspections. This is a clear violation of the relevant *Standards* as MASCO and its related companies carried out the installation of the very products MADCIO was

inspecting. (See Exhibit A1(a) attached hereto and incorporated herein by reference.

C. David Bell, the President of Energy Sense has confirmed in writing that Energy Sense is, in fact, a subsidiary of MASCO. He has also verbally disclosed to several parties his belief that, because MASCO is a large corporation with numerous sister companies and subsidiaries, MASCO et al can disregard CEC standards. In the attached letter, he states:

> ". . . Independent entity is defined as 'having no financial interest in or advocating or recommending the use of Product or Service as a means of gaining increased business."

Rich Dunn. The Manager of MASCO's Coast Building products gave Larry Stubbert in our office an advertisement that promotes exactly that. (See the 1st page of Exhibit A7 attached hereto and incorporated herein by reference)

D. Please refer to the correspondence from William Staack, senior Staff Counsel of the CEC. Mr. Staack writes "

> "Without supplementary documentation provided to the contrary, it appears that a violation of the conflict of interest provision under the HERS regulations could exist between EnergySense and various entities under the Masco Corporation structure because of the following presumptions:"(Please refer to the letter attached hereto as Exhibit A2 for the full text of Mr. Staack's letter)

Based upon the meeting held at the CEC in March of 2008, Mr. Staack is aware of the evidence disclosed during the course of this investigation.

E. There are several other instances , such as Todd Hamilton of CHEERS stating in an e-mail to Tav Commins "Coast Building Products is fully aware of the regulatory requirements and supports the intent of the regulations" yet nothing was asked or mentioned about conflict of interest regarding sister companies or their corporate structure by Mr. Hamilton. Even though I told Tom about the relationship between sister companies under the MASCO umbrella, nothing was done by the CHEERS provider. See Exhibit A7 attached hereto and incorporated herein by reference.

F. Please find enclosed herewith all letters and documentation which were presented at a meeting held on March 12, 2008 and attended by Bill Pennington, William Staack, Dennis Beck, Tav Commins (all of the CEC), Bill Lilly and Dave Hegarty.

IV. Authority Under Which Commission May Take Action [§1231(b)(6)]

We believe that the staff of the California Energy Commission has the authority and mandate from the California State legislature and CPUC to investigate this complaint. This action or complaint is being initiated at the request of Dennis Beck, Senior Staff Counsel to the CEC.

V. Requested Action [§1231(b)(5)]

Per section 1231(5) we, the petitioners formally request that MASCO and its related companies and subsidiaries, known and unknown, immediately cease all HERS and RESNET associated tested/inspections in California.

VI. Identification of Complainant [§1231(b)(1)]

California Living & Energy
A Division of William Lilly & Associates, Inc.
3015 Dale Court
Ceres, CA 95307
(209) 538-2879

VII. Declaration Under Penalty of Perjury [§1231(b)(8)]

We, the undersigned declare to the best of our knowledge and under penalty of perjury to the truth and accuracy of all factual allegations contained in this complaint and request for investigation.

By: _____
William Lilly, President
California Living & Energy

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Sunday, June 08, 2008 1:25 PM
To: 'Douglas Beaman'; Robert Scott; 'Rosie Smith'
Subject: FW: MASCO Revised
Attachments: Rev Attorney MASCO Complaint 06-05-08.doc

-----Original Message-----

From: Bill Lilly [mailto:bill.lilly@califliving.com]

Sent: Friday, June 06, 2008 8:46 AM

To: Dave Hegarty; Scott Johnson; Jayme Carden; G. LeBron

Subject: MASCO Revised

Dave

You are right regarding the errors. Hopefully, I corrected the worst ones and intent of what we are requesting is clear. I am e-mailing everybody the changes I made. Once this letter is agreed upon I will send all attachments for your review. I will cross out names I do not have permission to use.

Thanks for the correction

Bill

The attorney I use for correspondence has always been on top of things. This time his mind was somewhere else. I use other attorneys in the firm for different issues and they do an excellent job. Brett will hear it this morning.

--

Bill Lilly

President

California Living & Energy

3015 Dale Ct

Ceres, Ca. 95307

www.califliving.com

209-538-2879 x11

2007 ENERGY STAR for Homes Leadership in Housing Award Winner

Date: June 5, 2008

To: Dennis L. Beck Jr.
Senior Staff Council
California Energy Commission
1516 Ninth Street, MS-14
Sacramento, Ca. 95814

Mr. Beck
Per our meeting on March 12th 2008 and your written direction we respectfully submit the following complaint:

I. Identification of Alleged Violator [§1231(b)(2) & (7)]

Energy Sense/MASCO Group of Companies and Subsidiaries
2339 Belville Road
Daytona Beach, FL 32119
Phone (386) 763-4955
David Bell, Building Science Manager
Email: dave.bell @mascocs.com

As you are aware from previous correspondence, Energy Sense is a subsidiary of MASCO Corporation. Due to the nature of this relationship, there is a significant financial interest shared between the two entities. This relationship is confirmed within the "Report of Investigation on MASCO Contractors Services and its subsidiaries in California" attached hereto as *Exhibit A5* and the letter from Dave Bell, President of Energy Sense, attached hereto as Exhibit A3

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> " . . . Independent entity is defined as 'having no financial interest in or advocating or recommending the use of Product or Service as a means of gaining increased business."

Rich Dunn, manager of MASCO's Coast Building Products gave Larry Stubbert in our office an advertisement that promotes exactly that. (See the 1st page of Exhibit A7 attached hereto and incorporated herein by reference)

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Based upon the meeting held at the CEC in March of 2008, Mr. Staack is aware of the evidence disclosed during the course of this investigation.

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regulations" yet nothing was asked or mentioned about conflict of interest regarding sister companies or their corporate structure by Mr. Hamilton. Even though I told Tom about the relationship between sister companies under the MASCO umbrella the provider, CHEERS did nothing. (See Exhibit A7 attached hereto and incorporated herein by reference.)

F. Please find enclosed herewith all letters and documentation which were presented at a meeting held on March 12, 2008 and attended by Bill Pennington, William Staack, Dennis Beck, Tav Commins (all of the CEC), Bill Lilly and Dave Hegarty.

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VI. Identification of Complainant [§1231(b)(1)]

California Living & Energy
A Division of William Lilly & Associates, Inc.
3015 Dale Court
Ceres, CA 95307
(209) 538-2879

(I would like to ad your names to this)
Duct Testers
Address

Energy Inspectors
Address

Action Now
address

VII. Declaration Under Penalty of Perjury [§1231(b)(8)]

We, the undersigned declare to the best of our knowledge and under penalty of perjury to the truth and accuracy of all factual allegations contained in this complaint and request for investigation.

By: _____

William Lilly, President
California Living & Energy

California Living & Energy

3015 Dale Ct

Ceres, Ca. 95307

www.califliving.com

209-538-2879 x11

2007 ENERGY STAR for Homes Leadership in Housing Award Winner

Robert Scott

From: Robert Scott
Sent: Thursday, June 12, 2008 9:34 AM
To: davehegarty@ducttesters.com; Scott Johnson
Subject: MASCO Complaint

Dave & Scott:

Sorry for the delay in getting back to you, but I wanted to get legal counsel before I responded. CHEERS' goal is to see resolution to this once and for all. From what we saw in both the complaint and attached documents, the reference in the complaint, Part III, Item E., that Lilly provides does little to address resolving the problem. I have been advised by CHEERS Legal Counsel that this part of the complaint's argument is weak. Additionally, because this reference is listed among the 'instances' of MASCO and Energy Sense's violation of the code, it puts a former employees who can no longer speak to the issue in an awkward position, plus it diverts attention from the real issue. If you can get Lilly to remove Part III, Section E., then CHEERS will be in a much better position to work proactively with the CEC in setting precedent on the issue of conflict of interest in the regulations.

Here is the CHEERS position:

On April 12, 2006, Bill Lilly sent an email to Tav Commins re: 3rd party violation; it included the following:

> **"Below is Tom's response...**
> **Coast Building products does have raters that are certified by CHEERS. Concerning the projects you mention nothing is happening with them at this point. Pulte has been releasing the bid specs for the projects and Pulte is reviewing the submitted bids for their projects. Coast Building products is fully aware of the regulatory requirements and supports the intent of the CEC regulations. Due to their internal quality assurance Coast Building products is pursuing all appropriate approaches including, but not limited to the "three-party agreement" to ensure their client (Pulte) realizes they are receiving a valuable service, not just a service that is an expense."**

On July 10, 2006, Hamilton ceased to be executive director of CHEERS.

On August 22, 2006, CHEERS received from CEC the following message:

> **From: Tav Commins [mailto:Tcommins@energy.state.ca.us]**
> **Sent: Tuesday, August 22, 2006 2:34 PM**
> **To: doug@dougbeaman.com; Bill Pennington**
> **Cc: Melinda Merritt**
> **Subject: RE: Contact information for MASCO**
>
> **Wanted to let you know that I talked to Dave Bell at Masco about a possible conflict with MASCO starting up a new HERS testing service that will check their own work. I sent him the attached which are all the requirements regarding conflict of interest. I asked Dave to send us a letter how this new company does not defy our conflict of interest requirements.**
>
> **Tav**

<u>CHEERS COMMENT</u>:

As of August 22, 2006, CEC took ball in its court--the best place for the issue:

1. **CEC regulation allegedly violated.**
2. **CEC has detailed written process for alleged violations.**
3. **CEC has due process for all parties.**
4. **CEC decision-making recognized by all parties.**

Additionally:

1. **Hamilton hasn't been executive director of CHEERS for almost two years.**
2. **Hamilton has new position with new employer.**

Finally:

1. **Complainant can put anything he/she wants in complaint.**
2. **Successful complaint requires first hand evidence of conflict of interest.**
3. **Successful complaint presents best arguments, not hearsay.**
4. **Email from Hamilton isn't first hand evidence of conflict of interest, or even evidence of conflict of interest.**

Please contact me with any questions.

Best Regards,

Robert A Scott, CHEERS
Executive Director

NOTICE:
This message is for the designated recipient only and may contain privileged or confidential information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of this e-mail by you is prohibited.

Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Thursday, June 12, 2008 6:42 PM
To: Robert Scott
Subject: RE: MASCO Complaint

Robert: what do I do say that the below is my take on this and see what they saw? I am not sure if they have all the details you have listed down here. Can we talk? Dave

---

From: Robert Scott [mailto:rscott@cheers.org]
Sent: Thursday, June 12, 2008 9:34 AM
To: davehegarty@ducttesters.com; Scott Johnson
Subject: MASCO Complaint

Dave & Scott:

Sorry for the delay in getting back to you, but I wanted to get legal counsel before I responded. CHEERS' goal is to see resolution to this once and for all. From what we saw in both the complaint and attached documents, the reference in the complaint, Part III, Item E., that Lilly provides does little to address resolving the problem. I have been advised by CHEERS Legal Counsel that this part of the complaint's argument is weak. Additionally, because this reference is listed among the 'instances' of MASCO and Energy Sense's violation of the code, it puts a former employees who can no longer speak to the issue in an awkward position, plus it diverts attention from the real issue. If you can get Lilly to remove Part III, Section E., then CHEERS will be in a much better position to work proactively with the CEC in setting precedent on the issue of conflict of interest in the regulations.

Here is the CHEERS position:

On April 12, 2006, Bill Lilly sent an email to Tav Commins re: 3rd party violation; it included the following:

> **"Below is Tom's response...**
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On July 10, 2006, Hamilton ceased to be executive director of CHEERS.

On August 22, 2006, CHEERS received from CEC the following message:

> **From: Tav Commins [mailto:Tcommins@energy.state.ca.us]**
> **Sent: Tuesday, August 22, 2006 2:34 PM**
> **To: doug@dougbeaman.com; Bill Pennington**
> **Cc: Melinda Merritt**
> **Subject: RE: Contact information for MASCO**
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> **Wanted to let you know that I talked to Dave Bell at Masco about a possible conflict with MASCO starting up a new HERS testing service that will check their own work. I sent him the attached which are all the requirements regarding conflict of interest. I asked Dave to send us a letter how this new company does not defy our conflict of interest requirements.**
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CHEERS COMMENT:

As of August 22, 2006, CEC took ball in its court--the best place for the issue:

1. **CEC regulation allegedly violated.**
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1. **Complainant can put anything he/she wants in complaint.**
2. **Successful complaint requires first hand evidence of conflict of interest.**
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4. **Email from Hamilton isn't first hand evidence of conflict of interest, or even evidence of conflict of interest.**

Please contact me with any questions.

Best Regards,

Robert A Scott, CHEERS
Executive Director

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Robert Scott

From: DAVE HEGARTY [davehegarty@ducttesters.com]
Sent: Thursday, June 12, 2008 6:59 PM
To: Robert Scott
Subject: RE: MASCO Complaint

Robert: file this with your complaint:

In the spring of this year 2008, I had a meeting with Renovo Homes and their representative Vicky, the Superintendent for Renovo Rosenthol and PG&E Representative Evonne present with the MASCO/ Energy Sense representative. In this meeting he bragged about MASCO/Energy Sense ties and that the value that they (Renovo) would be receiving because of MASCO's buying power. He repeatedly said that the CEC had given them a "pass" on the verification issue that I brought up as "conflict of interest" and as the meeting went on and questions arose about the "conflict of interest" spurred on by me, of course, he bragged that he had a Letter from the CEC's Bill Pennington as to Masco/Energy Sense validity. He eve told Vicky his office would produce that letter for her so that she could be comfortable with Masco Energy Sense.
We continued to discuss this issue since he brought up the letter and promised me he would give it to me as well. knew he was unable to produce this letter and with more questions he go more irritated. According to Vicky, she has never received such a letter and the pricing that she gave me on the Energy Sense side was 50% below the best price I have ever seen on a verification contract. I was also shocked to hear him discuss ALL of the Masco products with the Renovo group and how to benefit from their "group pricing". So you see we have firsthand knowledge and I came home to tell Doug and everyone I could about the outrageous behavior of this guy and the boldness of Masco.

Put that in your Lawyers hands. Dave

From: Robert Scott [mailto:rscott@cheers.org]
Sent: Thursday, June 12, 2008 9:34 AM
To: davehegarty@ducttesters.com; Scott Johnson
Subject: MASCO Complaint

Dave & Scott:

Sorry for the delay in getting back to you, but I wanted to get legal counsel before I responded. CHEERS' goal is to see resolution to this once and for all. From what we saw in both the complaint and attached documents, the reference in the complaint, Part III, Item E., that Lilly provides does little to address resolving the problem. I have been advised by CHEERS Legal Counsel that this part of the complaint's argument is weak. Additionally, because this reference is listed among the 'instances' of MASCO and Energy Sense's violation of the code, it puts a former employees who can no longer speak to the issue in an awkward position, plus it diverts attention from the real issue. If you can get Lilly to remove Part III, Section E., then CHEERS will be in a much better position to work proactively with the CEC in setting precedent on the issue of conflict of interest in the regulations.

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Executive Director

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Robert Scott

From: Robert Scott
Sent: Thursday, June 12, 2008 10:35 PM
To: davehegarty@ducttesters.com
Subject: RE: MASCO Complaint

Dave:

I am pretty much in transit all day but can be reached on my cell to talk. I am not sure what you mean here.

Best Regards,

Robert A Scott, CHEERS
Executive Director

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Thursday, June 12, 2008 6:42 PM
To: Robert Scott
Subject: RE: MASCO Complaint

Robert: what do I do say that the below is my take on this and see what they saw? I am not sure if they have all the details you have listed down here. Can we talk? Dave

---

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Robert Scott

From: davehegarty@ducttesters.com
Sent: Friday, June 13, 2008 6:26 AM
To: Robert Scott
Subject: Re: MASCO Complaint

That is a firsthand account, and thats what CHeers legal wanted?

Sent from my BlackBerry® wireless device

-----Original Message-----

From: "Robert Scott" <rscott@cheers.org>

Date: Fri, 13 Jun 2008 01:35:01

To:<davehegarty@ducttesters.com>

Subject: RE: MASCO Complaint

Dave:

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Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Thursday, June 26, 2008 10:16 AM
To: Robert Scott
Subject: Apology

Categories: Purple Category

Robert: Obviously I am unable to be controlled in my conversation about Masco. I have gone over the line in the BLAME Game and I need to apologize to you. In all sincerity, I do apologize and I would ask that we not discuss the situation any longer. I am unable participate in any intelligent conversation about the issues and the facts behind the matter, without the passion and ire over the situation. I is eating me up inside and I have not been able to clarify my position to intelligent people who control the situation and make the rules. It is my shortcoming and I need to deal with it. And until I am able to discuss (probably never) anything in this realm without the emotion, then I bane myself from any interaction, mostly because I am at that point doing more harm than good. I am effectively destroying relationships over political nonsense and legal manovuring rather than sick to things that I can work with and enhance. There is no positive for me in this situation because I am loosing respect for the very institutions that provide a living for my business. Please accept my apology and please allow me to renew my CHEERS relationship as before. I know how much CHEERS and Robert Scott work tirelessly for all Raters and the industry and my timetable is not and should not be everyone elses. I do know the longer it goes on the harder it is to legally do anything about. That is CEC's fault and it is not a wonder why we have situations like the COOL HAND LUKE stuff, wherein Raters pass systems that are wasting energy and violating both the rules and the intent of the Code. I know the world is not perfect, and I need to keep that in mind when dealing with these issues. But most importantly, I need to keep in mind that Robert Scott is only as effective as the Raters and the CEC allow him to be, and that it is not Roberts fault in any way, shape or form. So at the risk of being even more outrageous by barring myself from talking about these issues, I want to ask you to forgive my behavior and to know in your heart that, all though I am an intelligent man, I am ignorant of negotiating a relationship that allows other intelligent people to understand the issue I am espousing. And too, that I am unable to control my own feelings and emotions to carry on a conversation with a respected friend and collegue. Robert I apologize and respect your authority and your wisdom. You have a proven track record for industry value and improvement. I, on the other hand have not and have no right to raise my voice in any way that demeans our relationship. If an issue is upsetting to me, I will endevure to avoid discussing it and giving it such a high aggrivation level for the good of the cause. You desire to have this in person, but it is not to be based on distance, but nevertheless, I recognize that the matter and the respect you desire, needs to be in person apology, but I hope you will recognize that the distance is the only thing that would keep me from driving to you right now to apologize in person. I AM SO VERY SORRY, Robert. An embarrassed Dave

Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Monday, July 07, 2008 7:05 AM
To: Robert Scott
Subject: FW: Masco, Energy Sense and Conflict of Interest rules

---

From: Dave Hegarty
Sent: Saturday, July 05, 2008 1:37 PM
To: Robert Scott
Cc: 'John Richau'
Subject: Masco, Energy Sense and Conflict of Interest rules

Dear CHEERS:

This will be the third time I am writing you and charging The BOARD of CHEERS, as to the most apparent CONFLICT OF INTEREST RULES violation by Energy Sense, A MASCO Company. Masco is doing business in the State of California and under their wholly owned subsidiary ENERGY SENSE and with CHEERS accreditation in violation of the Conflict Of Interest Rules and guidelines. I have charged the Board and Robert Scott with investigating and determining the charges that Masco is operating in without fear under CHEERS accreditation and in violation. Please see the guidelines herein cut and pasted directly from the CEC explanations:

CEC-400-2005-005-CMF

Revision 3

2. Compliance and Enforcement

Page 2-16 - Compliance and Enforcement – Roles and Responsibilities

Example 2-7
Question
I heard that there are conflict-of-interest requirements that HERS raters must abide by when doing field verification and diagnostic testing. What are these requirements?
Answer
HERS raters are expected to be objective, independent, third parties when they are fulfilling their duties as field verifiers and diagnostic testers. In this role they are serving as special inspectors for local building departments. By law HERS raters must be independent entities from the builder or subcontractor installer of the energy efficiency features being tested and verified. They can have no financial interest in the installation of the improvements. HERS raters cannot be employees of the builder or subcontractor whose work they are verifying. Also, HERS raters cannot have any financial interest in the builder's or contractor's business or advocate or recommend the use of any product or service that they are verifying. Section 106.3.5 of the CBC prohibits a special inspector from being employed (by contract or other means) by the contractor who performed the work that is being inspected.
The Energy Commission expects HERS raters to enter into a contract with the builder (not with sub-contractors) to provide independent, third-party diagnostic testing and field verification, and the procedures adopted by the Energy Commission calls for direct reporting of results to the builder, the HERS provider, and the building official. Although the Energy Commission does not recommend it, a "three-party contract" with the builder is possible, provided that the contract delineates both the independent responsibilities of the HERS rater and the responsibilities of a sub-contractor to take corrective action in response to deficiencies that are found by the HERS rater. Such a "three-party contract" may also establish a role for a sub-contractor to serve as contract administrator for the contract, including scheduling the HERS rater, invoicing, and payment provided the contract ensures that monies paid by the builder to the HERS rater can be traced through audit. It is critical that such a "three-party contract" preserves rater

independence in carrying out the responsibilities specified in Energy Commission-adopted field verification procedures. Even though such a "three-party contract" is not on its face in violation of the requirements of the Energy Commission, the closer the working relationship between the HERS rater and the sub-contractor whose work is being inspected, the greater the potential for compromising the independence of the HERS rater.

CHEERS and CalCERTS have been approved by the Energy Commission to serve as HERS providers to certify and oversee HERS raters throughout the state. These providers are required to provide ongoing monitoring of the propriety and accuracy of HERS raters in the performance of their duties and to respond to complaints about HERS rater performance. In cases where there may be real or perceived compromising of HERS rater independence, they are responsible for providing increased scrutiny of the HERS rater, and taking action to ensure objective, accurate reporting of diagnostic testing and field verification results, in compliance with Energy Commission adopted procedures.

Building officials have authority to require HERS raters to demonstrate competence, to the satisfaction of the building official. Building officials should place extra scrutiny on situations where there may be either real or perceived compromising of the independence of the HERS rater, and exercise their authority to disallow a particular HERS rater from being used in their jurisdiction or disallow HERS rater practices that the building official believes will result in compromising of HERS rater independence.

Please note the highlighted text and the third sentence. I understand this is an issue that has come to the Board on several occasions without resolve. As a certified CHEERS HERS Rater, I have asked CHEERS and I have provided written requests for investigation. I have provided first and second hand documentation to CHEERS which I am sure has made its way to BOARD members. I have not received anything in writing back from the BOARD as to investigations being implemented or actions taken on this matter. It is clear in this paragraph above that CHEERS has an obligation to provide "increased scrutiny of HERS raters" under the CONFLICT OF INTEREST RULE. I was told that an investigation would be done based on my request in writing, and that it would occur within 30 days. The results of any investigation that was promised and is part of the CEC charge to Providers has not been receive to this date. My request was made more than 90 days ago. I ask with all due respect, when will any investigation take place and when might we expect a determination based on an investigation to arrive in our hands? And along this same vein, I have requested, in writing, a dispute or request for investigation procedure from CHEERS and have not received it to date. I have talked with Tav Cummins at the CEC and he informs me that all Providers must have a complaint system and procedure for investigation of complains in written form for Raters and the public to access. Is this true and, if so, when might I expect that policy?.

It is my belief that Masco flies in the face of the Code and rules about Conflict of Interest, as you know. But as another CHEERS put it, "the continued lack of investigation and action or determination of Masco's violation, especially in our current Energy Market, only encourages other major subcontracting interests to look closer at the Masco business model and the benefits they gain from their self testing model. Can you imagine if other major installers and manufacturers involve themselves in the HERS industry, like Masco has done, to enhance their bottom line, would there be REAL ENERGY SAVINGS. This is making a mockery of the California Energy plan". And I would have to agree with this statement. I ask CHEERS, and THE BOARD to take a good look at the implications and the violations that they have in their possession and that have been forwarded to them, and read the letter from the CEC to Masco written over a year ago and determine if there is a violation of the Conflict of Interest Rule and to make a stand of the issue as to the BOARD's determination. I ask the BOARD to make a ruling on this issue, and set the record straight as to whether it is a conflict or not. And if found to be a conflict, take the appropriate actions to resolve the issue of Masco's accreditation under CHEERS. Even thought the Raters under Masco's Energy Sense umbrella, are individuals, CHEERS certified them under the Masco, Energy Sense corporate umbrella. And as you know, Masco is soliciting work from builders/developers from all their building services companies, and all of these companies are wholly owned by Masco. That is a direct violation of the Conflict of Interest rule. By continuing to ignore this issue, we are laying the ground work for more MAJOR companies to employ the same business model (in violation) and risk the real energy savings that California has enjoyed by implementation of our ENERGY CODES. As a State that is 23% better than the rest of the nation, and with the recognition that we have gained for that wise move, how do we now explain the lack of attention to the core of our CODE?

As you know, Bill Lilly of California Living and Energy, has submitted a written formal complaint to the CEC for request for and determination of, the Masco violation. I am privileged to support that document and request and ask CHEERS to also honor that request as a formal, written request for CHEERS formal investigation into the matter. His documentation is open to your scrutiny and I will provide (have already done so) copies of and additional information as to the matter and happenings. It is still my contention that whatever the violations or lack of quality of inspection having been done by Masco Raters, is not the real issue. But that Masco is, as a corporate owner of Energy Sense with better than the allowable financial interest, in violation of the CONFLICT OF INTEREST rule because of the ownership share and their "stake" in the builders business and that they continue to recommend their products to the builder at a discounted service under ENERGY SENSE.

CHEERS has the sole obligation to remedy the situation and the accreditation of Masco's Energy Sense in the State of California, because they are charged with that responsibility under the CEC rules. I hope you will take seriously this issue and provide Leadership in the effort to maintain a higher standard in the HERS industry, as the CHEERS BOARD has accomplished in the past. It was the CEC's forethought and wise determination that the HERS Rater should be a "TRUE Third Party" to the building industry to provide the REAL ENERGY saving that is so desperately needed then, and now in our world. It is all RATERS who look to you, the CHEERS BOARD, for the Leadership to guide and to determine the rights and wrongs that are going on in the industry. Your effort to educate and instruct to this date, is legendary, and this same credibility should be and needs to be maintained in issues such as this one. Thank you.

Sincerely,

Dave Hegarty, CHEERS RATER

Robert Scott

From: Robert Scott
Sent: Wednesday, July 09, 2008 6:54 AM
To: Dave Hegarty
Subject: RE: Masco, Energy Sense and Conflict of Interest rules
Attachments: MASCO Complaint; MASCO follow-up; RE: Masco; RE: MASCO Revised; MASCO Complaint

Dear Dave:

I have informed members of the CHEERS Board of Directors of your most recent email.

I am surprised of your claim that CHEERS has not responded in writing to your complaint. Given that your formal complaint was made via email I have responded to the issue in kind. I am attaching the following email messages sent to you on these dates: 4/29, 5/2, 5/15, 6/9, 6/12 and have listed them for you below:

4/29 – SUBJECT: MASCO Complaint – Acknowledgement of receipt of your complaint
5/2 – SUBJECT: MASCO Follow-up – Forward of CHEERS Letter to CEC
5/15 – SUBJECT: RE: Masco – Status
6/9 – SUBJECT: RE: Masco Revised – Acknowledgement of revised Lilly complaint to CEC
6/12 – SUBJECT: MASCO Complaint – Recommendations for changes to revised Lilly complaint to CEC

Please let me know if you would like these in hard copy, as well as and future communications on this matter sent to you by mail.

I want to point out that there are two complaint processes referenced in Title 20. The one you have invoked with CHEERS was originally intended to address consumer-related problems as opposed to business-to-business complaints. Thus it is not specifically responsive to this situation, which has clearly identified the need for more clear procedures for the latter type complaint.

Title 20 1673 (h)(3) Complaint response system. Each provider shall have a system for receiving complaints. The provider shall respond to and resolve complaints related to ratings and field verification and diagnostic testing services and reports. Providers shall ensure that raters inform purchasers and recipients of ratings and field verifications and diagnostic testing services about the complaint system. Each provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the provider

CHEERS takes the specific allegations in your complaint seriously and the process we must follow must consider the one which the CEC has set out for themselves in Title 20, which in summary is:

1. Complaint proceedings address alleged violations of statutes, orders, decisions or regulations of the CEC; investigation proceedings address the applicability of statutes, etc. So we are talking complaint proceedings.
2. Any person may file a complaint; it's filed with the General Counsel of the CEC and under penalty of perjury.
3. Within 30 days after receipt of complaint, it's dismissed or served on respondent.
4. Within 30 days after service, an answer is required.
5. Within 90 days after receipt of complaint, a hearing commences before an assigned committee or hearing officer.
6. Within 14 days after hearing, "to the extent reasonably possible," a proposed decision is made available.
7. Matter is scheduled for consideration by full commission "at the earliest reasonable date."

I assure you that CHEERS is interested in resolving this situation so that we can get on with the real object of our work.

I am away from the office for the remainder of the week and will not be available until Monday.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

NOTICE:

This message is for the designated recipient only and may contain privileged or confidential information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of this e-mail by you is prohibited.

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Monday, July 07, 2008 7:05 AM
To: Robert Scott
Subject: FW: Masco, Energy Sense and Conflict of Interest rules

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From: Dave Hegarty
Sent: Saturday, July 05, 2008 1:37 PM
To: Robert Scott
Cc: 'John Richau'
Subject: Masco, Energy Sense and Conflict of Interest rules

Dear CHEERS:

This will be the third time I am writing you and charging The BOARD of CHEERS, as to the most apparent CONFLICT OF INTEREST RULES violation by Energy Sense, A MASCO Company. Masco is doing business in the State of California and under their wholly owned subsidiary ENERGY SENSE and with CHEERS accreditation in violation of the Conflict Of Interest Rules and guidelines. I have charged the Board and Robert Scott with investigating and determining the charges that Masco is operating in without fear under CHEERS accreditation and in violation. Please see the guidelines herein cut and pasted directly from the CEC explanations:

CEC-400-2005-005-CMF

Revision 3

2. Compliance and Enforcement

Page 2-16 - Compliance and Enforcement – Roles and Responsibilities

Example 2-7
Question
I heard that there are conflict-of-interest requirements that HERS raters must abide by when doing field verification and diagnostic testing. What are these requirements?
Answer
HERS raters are expected to be objective, independent, third parties when they are fulfilling their duties as field verifiers and diagnostic testers. In this role they are serving as special inspectors for local building departments. By law HERS raters must be independent entities from the builder or subcontractor installer of the energy efficiency features being tested and verified. They can have no financial interest in the installation of the improvements. HERS raters cannot be employees of the builder or subcontractor whose work they are verifying. Also, HERS raters cannot have any financial interest in the builder's or contractor's business or advocate or recommend the use of any product or service that they are verifying. Section 106.3.5 of the CBC prohibits a special inspector from being employed (by contract or other means) by the contractor who performed the work that is being inspected.
The Energy Commission expects HERS raters to enter into a contract with the builder (not with sub-contractors) to provide independent, third-party diagnostic testing and field verification, and the procedures adopted by the Energy Commission calls for direct reporting of results to the

builder, the HERS provider, and the building official. Although the Energy Commission does not recommend it, a "three-party contract" with the builder is possible, provided that the contract delineates both the independent responsibilities of the HERS rater and the responsibilities of a sub-contractor to take corrective action in response to deficiencies that are found by the HERS rater. Such a "three-party contract" may also establish a role for a sub-contractor to serve as contract administrator for the contract, including scheduling the HERS rater, invoicing, and payment provided the contract ensures that monies paid by the builder to the HERS rater can be traced through audit. It is critical that such a "three-party contract" preserves rater independence in carrying out the responsibilities specified in Energy Commission-adopted field verification procedures. Even though such a "three-party contract" is not on its face in violation of the requirements of the Energy Commission, the closer the working relationship between the HERS rater and the sub-contractor whose work is being inspected, the greater the potential for compromising the independence of the HERS rater.

CHEERS and CalCERTS have been approved by the Energy Commission to serve as HERS providers to certify and oversee HERS raters throughout the state. These providers are required to provide ongoing monitoring of the propriety and accuracy of HERS raters in the performance of their duties and to respond to complaints about HERS rater performance. In cases where there may be real or perceived compromising of HERS rater independence, they are responsible for providing increased scrutiny of the HERS rater, and taking action to ensure objective, accurate reporting of diagnostic testing and field verification results, in compliance with Energy Commission adopted procedures.

Building officials have authority to require HERS raters to demonstrate competence, to the satisfaction of the building official. Building officials should place extra scrutiny on situations where there may be either real or perceived compromising of the independence of the HERS rater, and exercise their authority to disallow a particular HERS rater from being used in their jurisdiction or disallow HERS rater practices that the building official believes will result in compromising of HERS rater independence.

Please note the highlighted text and the third sentence. I understand this is an issue that has come to the Board on several occasions without resolve. As a certified CHEERS HERS Rater, I have asked CHEERS and I have provided written requests for investigation. I have provided first and second hand documentation to CHEERS which I am sure has made its way to BOARD members. I have not received anything in writing back from the BOARD as to investigations being implemented or actions taken on this matter. It is clear in this paragraph above that CHEERS has an obligation to provide "increased scrutiny of HERS raters" under the CONFLICT OF INTEREST RULE. I was told that an investigation would be done based on my request in writing, and that it would occur within 30 days. The results of any investigation that was promised and is part of the CEC charge to Providers has not been receive to this date. My request was made more than 90 days ago. I ask with all due respect, when will any investigation take place and when might we expect a determination based on an investigation to arrive in our hands? And along this same vein, I have requested, in writing, a dispute or request for investigation procedure from CHEERS and have not received it to date. I have talked with Tav Cummins at the CEC and he informs me that all Providers must have a complaint system and procedure for investigation of complains in written form for Raters and the public to access. Is this true and, if so, when might I expect that policy?.

It is my belief that Masco flies in the face of the Code and rules about Conflict of Interest, as you know. But as another CHEERS put it, "the continued lack of investigation and action or determination of Masco's violation, especially in our current Energy Market, only encourages other major subcontracting interests to look closer at the Masco business model and the benefits they gain from their self testing model. Can you imagine if other major installers and manufacturers involve themselves in the HERS industry, like Masco has done, to enhance their bottom line, would there be REAL ENERGY SAVINGS. This is making a mockery of the California Energy plan". And I would have to agree with this statement. I ask CHEERS, and THE BOARD to take a good look at the implications and the violations that they have in their possession and that have been forwarded to them, and read the letter from the CEC to Masco written over a year ago and determine if there is a violation of the Conflict of Interest Rule and to make a stand of the issue as to the BOARD's determination. I ask the BOARD to make a ruling on this issue, and set the record straight as to whether it is a conflict or not. And if found to be a conflict, take the appropriate actions to resolve the issue of Masco's accreditation under CHEERS. Even thought the Raters under Masco's Energy Sense umbrella, are individuals, CHEERS certified them

under the Masco, Energy Sense corporate umbrella. And as you know, Masco is soliciting work from builders/developers from all their building services companies, and all of these companies are wholly owned by Masco. That is a direct violation of the Conflict of Interest rule. By continuing to ignore this issue, we are laying the ground work for more MAJOR companies to employ the same business model (in violation) and risk the real energy savings that California has enjoyed by implementation of our ENERGY CODES. As a State that is 23% better than the rest of the nation, and with the recognition that we have gained for that wise move, how do we now explain the lack of attention to the core of our CODE?

As you know, Bill Lilly of California Living and Energy, has submitted a written formal complaint to the CEC for request for and determination of, the Masco violation. I am privileged to support that document and request and ask CHEERS to also honor that request as a formal, written request for CHEERS formal investigation into the matter. His documentation is open to your scrutiny and I will provide (have already done so) copies of and additional information as to the matter and happenings. It is still my contention that whatever the violations or lack of quality of inspection having been done by Masco Raters, is not the real issue. But that Masco is, as a corporate owner of Energy Sense with better than the allowable financial interest, in violation of the CONFLICT OF INTEREST rule because of the ownership share and their "stake" in the builders business and that they continue to recommend their products to the builder at a discounted service under ENERGY SENSE.

CHEERS has the sole obligation to remedy the situation and the accreditation of Masco's Energy Sense in the State of California, because they are charged with that responsibility under the CEC rules. I hope you will take seriously this issue and provide Leadership in the effort to maintain a higher standard in the HERS industry, as the CHEERS BOARD has accomplished in the past. It was the CEC's forethought and wise determination that the HERS Rater should be a "TRUE Third Party" to the building industry to provide the REAL ENERGY saving that is so desperately needed then, and now in our world. It is all RATERS who look to you, the CHEERS BOARD, for the Leadership to guide and to determine the rights and wrongs that are going on in the industry. Your effort to educate and instruct to this date, is legendary, and this same credibility should be and needs to be maintained in issues such as this one. Thank you.

Sincerely,

Dave Hegarty, CHEERS RATER

Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Wednesday, July 09, 2008 11:59 AM
To: Robert Scott
Cc: Bill Lilly; John Richau
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Robert: I will email you my meaning as soon as I get a break to do so, but I think I may have misstated my position or the interpretation of what I meant is incorrect, or better yet, I needed to state more clearly what I am asking. D But you are correct about these communications. I just have not received the "promised" investigation determination. Everyone I talk to, including CEC and you, feel this is a travesty and dangerous to our industry. Yet no one wants to make a stand. Clearly, CEC staff has told us that they privately agree, and that they feel like it is CHEERS' responsibility to address this issue since CHEERS is the certifying Provider and the Title 20 wording is clearly addressing this issue. But what I hear from the CEC is they are forwarding it to you, and what CHEERS says (official position) they have put it in the hands of the CEC. Clearly, you stated that the CEC has said that they will do nothing to remedy this problem without a formal complaint. (by the way, they officially have and have had a "formal complaint") and clearly CEC is denying any such pending action of investigation or any knowledge of a problem of "waiting for a formal complaint". So, here we are again, jeopardizing the industry standard and hurting the industry as well as allowing a private company, MASCO receive Public GOODS monies in violation of the State of California Energy Code and the CLSB's professional code as stated in the letter from CEC to Masco well over a year ago now, and without so much as a written response. Cheers has "jumped" on other "Rater problems" with immediate action and investigation. Yet, as you state, the Board is concerned about "law suits" over eligibility and certification. Yes, Cheers is probably right to be concerned, because they knowingly issued certification to the individuals in Masco's employee knowing full well they we under the Masco Umbrella and the Energy Sense Company was wholly owned by Masco. I understand that issue. However, it is setting a bad example for the rest of the Ratership that CHEERS is not addressing this matter. It provides an uneven playing field for all raters and their own interests. Is Masco so big that it can walk over the rules and the CEC as well, scaring the CHEERS provider as to legal battles? It would sound as though the issue of Bill Lilly's Masco Scare tactics is alive and working, as he stated and warned. Robert, clearly the issue is important and has risen to a level of needing immediate attention. My statement about not receiving written documentation on the matter, meant from an investigative or conclusion position. So it is my request or charge from my written email (which I asked you to accept, and grateful that you did) to investigate and determine, that I have not received any written notification or position. I am asking for the Board to take a formal written position on the Masco issue and their (Masco's) eligibility under Title 20 for all Raters to understand and read. I hope that clears the misunderstanding, you and I know we need to avoid in this situation. I apologize for any misleading statements and written communications that infer I have not heard from you on this matter. While CHEERS may not think the only problem here is that I have not "heard what I want to hear CHEERS say" it is that no formal investigation and findings have been written and made public as to the Broads' or CHEERS' position on the MASCO problem. I do not take this lightly, as a CHEERS supporter and a believer in the Energy Conservation movement over just producing more, I believe it is in the best interest of the industry and the "third party credibility" to provide true documented energy savings, without question as to its validity and authenticity, where no ulterior motivation exists, i.e. profits. Clearly, all the Masco inspections of Masco owned Companies pass the first time and have no rejections, you of all people know that. It is funny that the Masco companies fail more times as a percentage by independent Raters than at all with a Masco Energy Sense rater. That is proof in itself that they are without blame, (sarcasm). Robert, I have no idea what you mean by paragraph 5 of your email. And it goes that the matter of our last telephone conversation, avoidance of the matter, Finding ways to "not address the situation" such as we are now terming it a Business to Business complaint, if I understand even a little of what you have said here in this paragraph. It is clearly the responsibility of CHEERS CHARTER and Franchise under TILTE 20 as to this matter of Masco's eligibility and CEC responsibility to address the apparent violation. Or to at least determine if there is a violation. As an example, DuctTesters is a corporation, so under the current "non action policy" I should have the same rights to invest in other start my own insulation company, correct. Is that a violation? I has the Board to answer this question in earnest, because it is a serious question. I am a CHEERS Rater and if I am to do this, would then be under the scrutiny of CHEERS as to my "conflict of interest in by HERS rating, correct. I believe Robert, that we are on the same team and that you as well as I have the best interest of the industry and the energy conservation at heart. I believe that, but CHEERS has an obligation to the other Raters and myself, that they serve to make a determination and to address this matter if the

determination is adverse to either my charge or the code. That is what I have been asking. If that is not clearly the case, then I apologize and let's clear the air and understand what it is I have written my complaint about. Everyday that goes by, enhances the ability of Masco to operation in violation and "at will" with the CEC code and the CHEERS rules and Board. It is on the Board to address and it is their responsibility alone. When the air clears, however this turns out, and if the future allows Masco and others to control their bottom lines by walking on and violating Title 20 and the CEC Energy Code on a daily basis, California and CHEERS will not have lead the path as they have in the past. Home Developers and New homeowners will be at odds as to the accuracy of the installations that Energy Sense has done and to what integrity. The bottom line for CHEERS and RATERS is intention and integrity. Can that be insured by CHEERS if the profit of a Company is based so heavily on the same company installing as the verifier or certifier. We all see it on a daily basis, it doesn't work. And now it involves Public Goods monies. At some point Robert, it will be addressed, and when it does, I will be there. And even if it is adverse to my stance and what you say is your stance, then the World will have lost, because the energy will not have been saved and the overriding concern for profit by the non independent rater companies (Mascos) will have won. It is on us to remedy this situation, or children and their future are at stake. The future of building Green house gas emissions is the really enemy here. dave

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From: Robert Scott [mailto:rscott@cheers.org]
Sent: Wednesday, July 09, 2008 6:54 AM
To: Dave Hegarty
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Dear Dave:

I have informed members of the CHEERS Board of Directors of your most recent email.

I am surprised of your claim that CHEERS has not responded in writing to your complaint. Given that your formal complaint was made via email I have responded to the issue in kind. I am attaching the following email messages sent to you on these dates: 4/29, 5/2, 5/15, 6/9, 6/12 and have listed them for you below:

4/29 – SUBJECT: MASCO Complaint – Acknowledgement of receipt of your complaint
5/2 – SUBJECT: MASCO Follow-up – Forward of CHEERS Letter to CEC
5/15 – SUBJECT: RE: Masco – Status
6/9 – SUBJECT: RE: Masco Revised – Acknowledgement of revised Lilly complaint to CEC
6/12 – SUBJECT: MASCO Complaint – Recommendations for changes to revised Lilly complaint to CEC

Please let me know if you would like these in hard copy, as well as and future communications on this matter sent to you by mail.

I want to point out that there are two complaint processes referenced in Title 20. The one you have invoked with CHEERS was originally intended to address consumer-related problems as opposed to business-to-business complaints. Thus it is not specifically responsive to this situation, which has clearly identified the need for more clear procedures for the latter type complaint.

Title 20 1673 (h)(3) Complaint response system. Each provider shall have a system for receiving complaints. The provider shall respond to and resolve complaints related to ratings and field verification and diagnostic testing services and reports. Providers shall ensure that raters inform purchasers and recipients of ratings and field verifications and diagnostic testing services about the complaint system. Each provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the provider

CHEERS takes the specific allegations in your complaint seriously and the process we must follow must consider the one which the CEC has set out for themselves in Title 20, which in summary is:

1. Complaint proceedings address alleged violations of statutes, orders, decisions or regulations of the CEC; investigation proceedings address the applicability of statutes, etc. So we are talking complaint proceedings.
2. Any person may file a complaint; it's filed with the General Counsel of the CEC and under penalty of perjury.

3. Within 30 days after receipt of complaint, it's dismissed or served on respondent.
4. Within 30 days after service, an answer is required.
5. Within 90 days after receipt of complaint, a hearing commences before an assigned committee or hearing officer.
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I assure you that CHEERS is interested in resolving this situation so that we can get on with the real object of our work.

I am away from the office for the remainder of the week and will not be available until Monday.

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Sent: Saturday, July 05, 2008 1:37 PM
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Cc: 'John Richau'
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Page 2-16 - Compliance and Enforcement – Roles and Responsibilities

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Sincerely,

Dave Hegarty, CHEERS RATER

Internal Virus Database is out of date.
Checked by AVG - http://www.avg.com
Version: 8.0.134 / Virus Database: 270.4.4/1532 - Release Date: 7/3/2008 8:32 AM

Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Thursday, July 10, 2008 12:09 PM
To: Robert Scott
Cc: Bill Lilly; John Richau
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Robert: I will email you my meaning as soon as I get a break to do so, but I think I may have misstated my position or the interpretation of what I meant is incorrect, or better yet, I needed to state more clearly what I am asking. D But you are correct about these communications. I just have not received the "promised" investigation determination. Everyone I talk to, including CEC and you, feel this is a travesty and dangerous to our industry. Yet no one wants to make a stand. Clearly, CEC staff has told us that they privately agree, and that they feel like it is CHEERS' responsibility to address this issue since CHEERS is the certifying Provider and the Title 20 wording is clearly addressing this issue. But what I hear from the CEC is they are forwarding it to you, and what CHEERS says (official position) they have put it in the hands of the CEC. Clearly, you stated that the CEC has said that they will do nothing to remedy this problem without a formal complaint. 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Clearly, all the Masco inspections of Masco owned Companies pass the first time and have no rejections, you of all people know that. It is funny that the Masco companies fail more times as a percentage by independent Raters than at all with a Masco Energy Sense rater. That is proof in itself that they are without blame, (sarcasm). Robert, I have no idea what you mean by paragraph 5 of your email. And it goes that the matter of our last telephone conversation, avoidance of the matter, Finding ways to "not address the situation" such as we are now terming it a Business to Business complaint, if I understand even a little of what you have said here in this paragraph. It is clearly the responsibility of CHEERS CHARTER and Franchise under TILTE 20 as to this matter of Masco's eligibility and CEC responsibility to address the apparent violation. Or to at least determine if there is a violation. As an example, DuctTesters is a corporation, so under the current "non action policy" I should have the same rights to invest in other start my own insulation company, correct. Is that a violation? I has the Board to answer this question in earnest, because it is a serious question. I am a CHEERS Rater and if I am to do this, would then be under the scrutiny of CHEERS as to my "conflict of interest in by HERS rating, correct. I believe Robert, that we are on the same team and that you as well as I have the best interest of the industry and the energy conservation at heart. I believe that, but CHEERS has an obligation to the other Raters and myself, that they serve to make a determination and to address this matter if the

determination is adverse to either my charge or the code. That is what I have been asking. If that is not clearly the case, then I apologize and let's clear the air and understand what it is I have written my complaint about. Everyday that goes by, enhances the ability of Masco to operation in violation and "at will" with the CEC code and the CHEERS rules and Board. It is on the Board to address and it is their responsibility alone. When the air clears, however this turns out, and if the future allows Masco and others to control their bottom lines by walking on and violating Title 20 and the CEC Energy Code on a daily basis, California and CHEERS will not have lead the path as they have in the past. Home Developers and New homeowners will be at odds as to the accuracy of the installations that Energy Sense has done and to what integrity. The bottom line for CHEERS and RATERS is intention and integrity. Can that be insured by CHEERS if the profit of a Company is based so heavily on the same company installing as the verifier or certifier. We all see it on a daily basis, it doesn't work. And now it involves Public Goods monies. At some point Robert, it will be addressed, and when it does, I will be there. And even if it is adverse to my stance and what you say is your stance, then the World will have lost, because the energy will not have been saved and the overriding concern for profit by the non independent rater companies (Mascos) will have won. It is on us to remedy this situation, or children and their future are at stake. The future of building Green house gas emissions is the really enemy here. dave

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From: Robert Scott [mailto:rscott@cheers.org]
Sent: Wednesday, July 09, 2008 6:54 AM
To: Dave Hegarty
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Dear Dave:

I have informed members of the CHEERS Board of Directors of your most recent email.

I am surprised of your claim that CHEERS has not responded in writing to your complaint. Given that your formal complaint was made via email I have responded to the issue in kind. I am attaching the following email messages sent to you on these dates: 4/29, 5/2, 5/15, 6/9, 6/12 and have listed them for you below:

4/29 – SUBJECT: MASCO Complaint – Acknowledgement of receipt of your complaint
5/2 – SUBJECT: MASCO Follow-up – Forward of CHEERS Letter to CEC
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6/12 – SUBJECT: MASCO Complaint – Recommendations for changes to revised Lilly complaint to CEC

Please let me know if you would like these in hard copy, as well as and future communications on this matter sent to you by mail.

I want to point out that there are two complaint processes referenced in Title 20. The one you have invoked with CHEERS was originally intended to address consumer-related problems as opposed to business-to-business complaints. Thus it is not specifically responsive to this situation, which has clearly identified the need for more clear procedures for the latter type complaint.

Title 20 1673 (h)(3) Complaint response system. Each provider shall have a system for receiving complaints. The provider shall respond to and resolve complaints related to ratings and field verification and diagnostic testing services and reports. Providers shall ensure that raters inform purchasers and recipients of ratings and field verifications and diagnostic testing services about the complaint system. Each provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the provider

CHEERS takes the specific allegations in your complaint seriously and the process we must follow must consider the one which the CEC has set out for themselves in Title 20, which in summary is:

1. Complaint proceedings address alleged violations of statutes, orders, decisions or regulations of the CEC; investigation proceedings address the applicability of statutes, etc. So we are talking complaint proceedings.
2. Any person may file a complaint; it's filed with the General Counsel of the CEC and under penalty of perjury.

3. Within 30 days after receipt of complaint, it's dismissed or served on respondent.
4. Within 30 days after service, an answer is required.
5. Within 90 days after receipt of complaint, a hearing commences before an assigned committee or hearing officer.
6. Within 14 days after hearing, "to the extent reasonably possible," a proposed decision is made available.
7. Matter is scheduled for consideration by full commission "at the earliest reasonable date."

I assure you that CHEERS is interested in resolving this situation so that we can get on with the real object of our work.

I am away from the office for the remainder of the week and will not be available until Monday.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

NOTICE:

This message is for the designated recipient only and may contain privileged or confidential information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of this e-mail by you is prohibited.

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Monday, July 07, 2008 7:05 AM
To: Robert Scott
Subject: FW: Masco, Energy Sense and Conflict of Interest rules

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From: Dave Hegarty
Sent: Saturday, July 05, 2008 1:37 PM
To: Robert Scott
Cc: 'John Richau'
Subject: Masco, Energy Sense and Conflict of Interest rules

Dear CHEERS:

This will be the third time I am writing you and charging The BOARD of CHEERS, as to the most apparent CONFLICT OF INTEREST RULES violation by Energy Sense, A MASCO Company. Masco is doing business in the State of California and under their wholly owned subsidiary ENERGY SENSE and with CHEERS accreditation in violation of the Conflict Of Interest Rules and guidelines. I have charged the Board and Robert Scott with investigating and determining the charges that Masco is operating in without fear under CHEERS accreditation and in violation. Please see the guidelines herein cut and pasted directly from the CEC explanations:

CEC-400-2005-005-CMF
Revision 3

2. Compliance and Enforcement

Page 2-16 - Compliance and Enforcement – Roles and Responsibilities

Example 2-7
Question
I heard that there are conflict-of-interest requirements that HERS raters must abide by when doing field verification and diagnostic testing. What are these requirements?
Answer
HERS raters are expected to be objective, independent, third parties when they are fulfilling their duties as field verifiers and diagnostic testers. In this role they are serving as special

inspectors for local building departments. By law HERS raters must be independent entities from the builder or subcontractor installer of the energy efficiency features being tested and verified. They can have no financial interest in the installation of the improvements. HERS raters cannot be employees of the builder or subcontractor whose work they are verifying. Also, HERS raters cannot have any financial interest in the builder's or contractor's business or advocate or recommend the use of any product or service that they are verifying. Section 106.3.5 of the CBC prohibits a special inspector from being employed (by contract or other means) by the contractor who performed the work that is being inspected.
The Energy Commission expects HERS raters to enter into a contract with the builder (not with sub-contractors) to provide independent, third-party diagnostic testing and field verification, and the procedures adopted by the Energy Commission calls for direct reporting of results to the builder, the HERS provider, and the building official. Although the Energy Commission does not recommend it, a "three-party contract" with the builder is possible, provided that the contract delineates both the independent responsibilities of the HERS rater and the responsibilities of a sub-contractor to take corrective action in response to deficiencies that are found by the HERS rater. Such a "three-party contract" may also establish a role for a sub-contractor to serve as contract administrator for the contract, including scheduling the HERS rater, invoicing, and payment provided the contract ensures that monies paid by the builder to the HERS rater can be traced through audit. It is critical that such a "three-party contract" preserves rater independence in carrying out the responsibilities specified in Energy Commission-adopted field verification procedures. Even though such a "three-party contract" is not on its face in violation of the requirements of the Energy Commission, the closer the working relationship between the HERS rater and the sub-contractor whose work is being inspected, the greater the potential for compromising the independence of the HERS rater.

CHEERS and CalCERTS have been approved by the Energy Commission to serve as HERS providers to certify and oversee HERS raters throughout the state. These providers are required to provide ongoing monitoring of the propriety and accuracy of HERS raters in the performance of their duties and to respond to complaints about HERS rater performance. In cases where there may be real or perceived compromising of HERS rater independence, they are responsible for providing increased scrutiny of the HERS rater, and taking action to ensure objective, accurate reporting of diagnostic testing and field verification results, in compliance with Energy Commission adopted procedures.

Building officials have authority to require HERS raters to demonstrate competence, to the satisfaction of the building official. Building officials should place extra scrutiny on situations where there may be either real or perceived compromising of the independence of the HERS rater, and exercise their authority to disallow a particular HERS rater from being used in their jurisdiction or disallow HERS rater practices that the building official believes will result in compromising of HERS rater independence.

Please note the highlighted text and the third sentence. I understand this is an issue that has come to the Board on several occasions without resolve. As a certified CHEERS HERS Rater, I have asked CHEERS and I have provided written requests for investigation. I have provided first and second hand documentation to CHEERS which I am sure has made its way to BOARD members. I have not received anything in writing back from the BOARD as to investigations being implemented or actions taken on this matter. It is clear in this paragraph above that CHEERS has an obligation to provide "increased scrutiny of HERS raters" under the CONFLICT OF INTEREST RULE. I was told that an investigation would be done based on my request in writing, and that it would occur within 30 days. The results of any investigation that was promised and is part of the CEC charge to Providers has not been receive to this date. My request was made more than 90 days ago. I ask with all due respect, when will any investigation take place and when might we expect a determination based on an investigation to arrive in our hands? And along this same vein, I have requested, in writing, a dispute or request for investigation procedure from CHEERS and have not received it to date. I have talked with Tav Cummins at the CEC and he informs me that all Providers must have a complaint system and procedure for investigation of complains in written form for Raters and the public to access. Is this true and, if so, when might I expect that policy?.

It is my belief that Masco flies in the face of the Code and rules about Conflict of Interest, as you know. But as another CHEERS put it, "the continued lack of investigation and action or determination of Masco's violation, especially in our current Energy Market, only encourages other major subcontracting interests to look closer at the Masco business model and the benefits they gain from their self testing model. Can you imagine if other major installers and manufacturers involve themselves in the HERS industry, like Masco has done, to enhance their bottom line, would there be REAL ENERGY SAVINGS. This is making a mockery of the California Energy plan". And I would have to agree with this statement. I ask CHEERS, and THE BOARD to take a good look at the implications and the violations that they have in their possession and that have been forwarded to them, and read the letter from the CEC to Masco written over a year ago and determine if there is a violation of the Conflict of Interest Rule and to make a stand of the issue as to the BOARD's determination. I ask the BOARD to make a ruling on this issue, and set the record straight as to whether it is a conflict or not. And if found to be a conflict, take the appropriate actions to resolve the issue of Masco's accreditation under CHEERS. Even thought the Raters under Masco's Energy Sense umbrella, are individuals, CHEERS certified them under the Masco, Energy Sense corporate umbrella. And as you know, Masco is soliciting work from builders/developers from all their building services companies, and all of these companies are wholly owned by Masco. That is a direct violation of the Conflict of Interest rule. By continuing to ignore this issue, we are laying the ground work for more MAJOR companies to employ the same business model (in violation) and risk the real energy savings that California has enjoyed by implementation of our ENERGY CODES. As a State that is 23% better than the rest of the nation, and with the recognition that we have gained for that wise move, how do we now explain the lack of attention to the core of our CODE?

As you know, Bill Lilly of California Living and Energy, has submitted a written formal complaint to the CEC for request for and determination of, the Masco violation. I am privileged to support that document and request and ask CHEERS to also honor that request as a formal, written request for CHEERS formal investigation into the matter. His documentation is open to your scrutiny and I will provide (have already done so) copies of and additional information as to the matter and happenings. It is still my contention that whatever the violations or lack of quality of inspection having been done by Masco Raters, is not the real issue. But that Masco is, as a corporate owner of Energy Sense with better than the allowable financial interest, in violation of the CONFLICT OF INTEREST rule because of the ownership share and their "stake" in the builders business and that they continue to recommend their products to the builder at a discounted service under ENERGY SENSE.

CHEERS has the sole obligation to remedy the situation and the accreditation of Masco's Energy Sense in the State of California, because they are charged with that responsibility under the CEC rules. I hope you will take seriously this issue and provide Leadership in the effort to maintain a higher standard in the HERS industry, as the CHEERS BOARD has accomplished in the past. It was the CEC's forethought and wise determination that the HERS Rater should be a "TRUE Third Party" to the building industry to provide the REAL ENERGY saving that is so desperately needed then, and now in our world. It is all RATERS who look to you, the CHEERS BOARD, for the Leadership to guide and to determine the rights and wrongs that are going on in the industry. Your effort to educate and instruct to this date, is legendary, and this same credibility should be and needs to be maintained in issues such as this one. Thank you.

Sincerely,

Dave Hegarty, CHEERS RATER

Internal Virus Database is out of date.
Checked by AVG - http://www.avg.com
Version: 8.0.134 / Virus Database: 270.4.4/1532 - Release Date: 7/3/2008 8:32 AM

Robert Scott

From: Bill Lilly [bill.lilly@califliving.com]
Sent: Thursday, July 10, 2008 12:50 PM
To: Dave Hegarty
Cc: Robert Scott; John Richau; G. LeBron; Scott Johnson
Subject: Re: Masco, Energy Sense and Conflict of Interest rules

Robert
FYI
I agree and understand what Dave is saying. Dennis Beck, Senior Staff Council, informed us yesterday they will have a response by August 8th. Ken Alex with DOJ is now involved with the complaint. Other Rater companies have now joined our endeavor. on going...
Sincerely
Bill

On Thu, Jul 10, 2008 at 12:09 PM, Dave Hegarty <DaveHegarty@ducttesters.com> wrote:

Robert: I will email you my meaning as soon as I get a break to do so, but I think I may have misstated my position or the interpretation of what I meant is incorrect, or better yet, I needed to state more clearly what I am asking. D But you are correct about these communications. I just have not received the "promised" investigation determination. Everyone I talk to, including CEC and you, feel this is a travesty and dangerous to our industry. Yet no one wants to make a stand. Clearly, CEC staff has told us that they privately agree, and that they feel like it is CHEERS' responsibility to address this issue since CHEERS is the certifying Provider and the Title 20 wording is clearly addressing this issue. But what I hear from the CEC is they are forwarding it to you, and what CHEERS says (official position) they have put it in the hands of the CEC. Clearly, you stated that the CEC has said that they will do nothing to remedy this problem without a formal complaint. (by the way, they officially have and have had a "formal complaint") and clearly CEC is denying any such pending action of investigation or any knowledge of a problem of "waiting for a formal complaint". So, here we are again, jeopardizing the industry standard and hurting the industry as well as allowing a private company, MASCO receive Public GOODS monies in violation of the State of California Energy Code and the CLSB's professional code as stated in the letter from CEC to Masco well over a year ago now, and without so much as a written response. Cheers has "jumped" on other "Rater problems" with immediate action and investigation. Yet, as you state, the Board is concerned about "law suits" over eligibility and certification. Yes, Cheers is probably right to be concerned, because they knowingly issued certification to the individuals in Masco's employee knowing full well they we under the Masco Umbrella and the Energy Sense Company was wholly owned by Masco. I understand that issue. However, it is setting a bad example for the rest of the Ratership that CHEERS is not addressing this matter. It provides an uneven playing field for all raters and their own interests. Is Masco so big that it can walk over the rules and the CEC as well, scaring the CHEERS provider as to legal battles? It would sound as though the issue of Bill Lilly's Masco Scare tactics is alive and working, as he stated and warned. Robert, clearly the issue is important and has risen to a level of needing immediate attention. My statement about not receiving written documentation on the matter, meant from an investigative or conclusion position. So it is my request or charge from my written email (which I asked you to accept, and grateful that you did) to investigate and determine, that I have not received any written notification or position. I am asking for the Board to take a formal written position on the Masco issue and their (Masco's) eligibility under Title 20 for all Raters to understand and read. I hope that clears the misunderstanding, you and I know we need to avoid in this situation. I apologize for any misleading statements and written communications that infer I have not heard from you on this matter. While CHEERS may not think the only problem here is that I have not "heard what I want to hear CHEERS say" it is that no formal investigation and findings have been written and made public as to the Broads' or CHEERS' position on the MASCO problem. I do not take this lightly, as a CHEERS supporter and a believer in the Energy Conservation movement over just producing more, I believe it is in the best interest of the industry and the "third party credibility" to provide true documented energy savings, without question as to its validity and authenticity, where no ulterior motivation exists, i.e. profits. Clearly, all the

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Subject: RE: Masco, Energy Sense and Conflict of Interest rules

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Executive Director

(714) 500-4455

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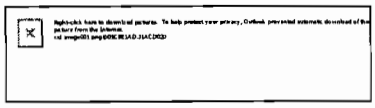

2. Compliance and Enforcement

Page 2-16 - Compliance and Enforcement – Roles and Responsibilities

Example 2-7

Question

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Building officials have authority to require HERS raters to demonstrate competence, to the satisfaction of the building official. Building officials should place extra scrutiny on situations where there may be either real or perceived compromising of the independence of the HERS rater, and exercise their authority to disallow a particular HERS rater from being used in their jurisdiction or disallow HERS rater practices that the building official believes will result in

compromising of HERS rater independence.

Please note the highlighted text and the third sentence. I understand this is an issue that has come to the Board on several occasions without resolve. As a certified CHEERS HERS Rater, I have asked CHEERS and I have provided written requests for investigation. I have provided first and second hand documentation to CHEERS which I am sure has made its way to BOARD members. I have not received anything in writing back from the BOARD as to investigations being implemented or actions taken on this matter. It is clear in this paragraph above that CHEERS has an obligation to provide "increased scrutiny of HERS raters" under the CONFLICT OF INTEREST RULE. I was told that an investigation would be done based on my request in writing, and that it would occur within 30 days. The results of any investigation that was promised and is part of the CEC charge to Providers has not been receive to this date. My request was made more than 90 days ago. I ask with all due respect, when will any investigation take place and when might we expect a determination based on an investigation to arrive in our hands? And along this same vein, I have requested, in writing, a dispute or request for investigation procedure from CHEERS and have not received it to date. I have talked with Tav Cummins at the CEC and he informs me that all Providers must have a complaint system and procedure for investigation of complains in written form for Raters and the public to access. Is this true and, if so, when might I expect that policy?.

It is my belief that Masco flies in the face of the Code and rules about Conflict of Interest, as you know. But as another CHEERS put it, "the continued lack of investigation and action or determination of Masco's violation, especially in our current Energy Market, only encourages other major subcontracting interests to look closer at the Masco business model and the benefits they gain from their self testing model. Can you imagine if other major installers and manufacturers involve themselves in the HERS industry, like Masco has done, to enhance their bottom line, would there be REAL ENERGY SAVINGS. This is making a mockery of the California Energy plan". And I would have to agree with this statement. I ask CHEERS, and THE BOARD to take a good look at the implications and the violations that they have in their possession and that have been forwarded to them, and read the letter from the CEC to Masco written over a year ago and determine if there is a violation of the Conflict of Interest Rule and to make a stand of the issue as to the BOARD's determination. I ask the BOARD to make a ruling on this issue, and set the record straight as to whether it is a conflict or not. And if found to be a conflict, take the appropriate actions to resolve the issue of Masco's accreditation under CHEERS. Even thought the Raters under Masco's Energy Sense umbrella, are individuals, CHEERS certified them under the Masco, Energy Sense corporate umbrella. And as you know, Masco is soliciting work from builders/developers from all their building services companies, and all of these companies are wholly owned by Masco. That is a direct violation of the Conflict of Interest rule. By continuing to ignore this issue, we are laying the ground work for more MAJOR companies to employ the same business model (in violation) and risk the real energy savings that California has enjoyed by implementation of our ENERGY CODES. As a State that is 23% better than the rest of the nation, and with the recognition that we have gained for that wise move, how do we now explain the lack of attention to the core of our CODE?

As you know, Bill Lilly of California Living and Energy, has submitted a written formal complaint to the CEC for request for and determination of, the Masco violation. I am privileged to support that document and request and ask CHEERS to also honor that request as a formal, written request for CHEERS formal investigation into the matter. His documentation is open to your scrutiny and I will provide (have already done so) copies of and additional information as to the matter and happenings. It is still my contention that whatever the violations or lack of quality of inspection having been done by Masco Raters, is not the real issue. But that Masco is, as a corporate owner of Energy Sense with better than the allowable financial interest, in violation of the

CONFLICT OF INTEREST rule because of the ownership share and their "stake" in the builders business and that they continue to recommend their products to the builder at a discounted service under ENERGY SENSE.

CHEERS has the sole obligation to remedy the situation and the accreditation of Masco's Energy Sense in the State of California, because they are charged with that responsibility under the CEC rules. I hope you will take seriously this issue and provide Leadership in the effort to maintain a higher standard in the HERS industry, as the CHEERS BOARD has accomplished in the past. It was the CEC's forethought and wise determination that the HERS Rater should be a "TRUE Third Party" to the building industry to provide the REAL ENERGY saving that is so desperately needed then, and now in our world. It is all RATERS who look to you, the CHEERS BOARD, for the Leadership to guide and to determine the rights and wrongs that are going on in the industry. Your effort to educate and instruct to this date, is legendary, and this same credibility should be and needs to be maintained in issues such as this one. Thank you.

Sincerely,

Dave Hegarty, CHEERS RATER

Internal Virus Database is out of date.
Checked by AVG - http://www.avg.com
Version: 8.0.134 / Virus Database: 270.4.4/1532 - Release Date: 7/3/2008 8:32 AM

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Bill Lilly
President
California Living & Energy
3015 Dale Ct
Ceres, Ca. 95307
www.califliving.com
209-538-2879 x11
2007 ENERGY STAR for Homes Leadership in Housing Award Winner

Robert Scott

From: Robert Scott
Sent: Monday, July 14, 2008 12:23 PM
To: Dave Hegarty
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Dave:

It is going to take me a bit of time to properly process what you have written. This is not meant to lecture, however for me, tracking the various points that you are trying to make in a single paragraph is challenging. I would like to ensure my understandings are correct as to any facts it contains. Thank you for your patience.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

NOTICE:

This message is for the designated recipient only and may contain privileged or confidential information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of this e-mail by you is prohibited.

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Thursday, July 10, 2008 12:09 PM
To: Robert Scott
Cc: Bill Lilly; John Richau
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Robert: I will email you my meaning as soon as I get a break to do so, but I think I may have misstated my position or the interpretation of what I meant is incorrect, or better yet, I needed to state more clearly what I am asking. D But you are correct about these communications. I just have not received the "promised" investigation determination. Everyone I talk to, including CEC and you, feel this is a travesty and dangerous to our industry. Yet no one wants to make a stand. Clearly, CEC staff has told us that they privately agree, and that they feel like it is CHEERS' responsibility to address this issue since CHEERS is the certifying Provider and the Title 20 wording is clearly addressing this issue. But what I hear from the CEC is they are forwarding it to you, and what CHEERS says (official position) they have put it in the hands of the CEC. Clearly, you stated that the CEC has said that they will do nothing to remedy this problem without a formal complaint. (by the way, they officially have and have had a "formal complaint") and clearly CEC is denying any such pending action of investigation or any knowledge of a problem of "waiting for a formal complaint". So, here we are again, jeopardizing the industry standard and hurting the industry as well as allowing a private company, MASCO receive Public GOODS monies in violation of the State of California Energy Code and the CLSB's professional code as stated in the letter from CEC to Masco well over a year ago now, and without so much as a written response. Cheers has "jumped" on other "Rater problems" with immediate action and investigation. Yet, as you state, the Board is concerned about "law suits" over eligibility and certification. Yes, Cheers is probably right to be concerned, because they knowingly issued certification to the individuals in Masco's employee knowing full well they we under the Masco Umbrella and the Energy Sense Company was wholly owned by Masco. I understand that issue. However, it is setting a bad example for the rest of the Ratership that CHEERS is not addressing this matter. It provides an uneven playing field for all raters and their own interests. Is Masco so big that it can walk over the rules and the CEC as well, scaring the CHEERS provider as to legal battles? It would sound as though the issue of Bill Lilly's Masco Scare tactics is alive and working, as he stated and warned. Robert, clearly the issue is important and has risen to a level of needing immediate attention. My statement about not receiving written documentation on the matter, meant from an investigative or conclusion position. So it is my request or charge from my written email (which I asked you to accept, and grateful that

you did) to investigate and determine, that I have not received any written notification or position. I am asking for the Board to take a formal written position on the Masco issue and their (Masco's) eligibility under Title 20 for all Raters to understand and read. I hope that clears the misunderstanding, you and I know we need to avoid in this situation. I apologize for any misleading statements and written communications that infer I have not heard from you on this matter. While CHEERS may not think the only problem here is that I have not "heard what I want to hear CHEERS say" it is that no formal investigation and findings have been written and made public as to the Broads' or CHEERS' position on the MASCO problem. I do not take this lightly, as a CHEERS supporter and a believer in the Energy Conservation movement over just producing more, I believe it is in the best interest of the industry and the "third party credibility" to provide true documented energy savings, without question as to its validity and authenticity, where no ulterior motivation exists, i.e. profits. Clearly, all the Masco inspections of Masco owned Companies pass the first time and have no rejections, you of all people know that. It is funny that the Masco companies fail more times as a percentage by independent Raters than at all with a Masco Energy Sense rater. That is proof in itself that they are without blame, (sarcasm). Robert, I have no idea what you mean by paragraph 5 of your email. And it goes that the matter of our last telephone conversation, avoidance of the matter, Finding ways to "not address the situation" such as we are now terming it a Business to Business complaint, if I understand even a little of what you have said here in this paragraph. It is clearly the responsibility of CHEERS CHARTER and Franchise under TILTE 20 as to this matter of Masco's eligibility and CEC responsibility to address the apparent violation. Or to at least determine if there is a violation. As an example, DuctTesters is a corporation, so under the current "non action policy" I should have the same rights to invest in other start my own insulation company, correct. Is that a violation? I has the Board to answer this question in earnest, because it is a serious question. I am a CHEERS Rater and if I am to do this, would then be under the scrutiny of CHEERS as to my "conflict of interest in by HERS rating, correct. I believe Robert, that we are on the same team and that you as well as I have the best interest of the industry and the energy conservation at heart. I believe that, but CHEERS has an obligation to the other Raters and myself, that they serve to make a determination and to address this matter if the determination is adverse to either my charge or the code. That is what I have been asking. If that is not clearly the case, then I apologize and let's clear the air and understand what it is I have written my complaint about. Everyday that goes by, enhances the ability of Masco to operation in violation and "at will" with the CEC code and the CHEERS rules and Board. It is on the Board to address and it is their responsibility alone. When the air clears, however this turns out, and if the future allows Masco and others to control their bottom lines by walking on and violating Title 20 and the CEC Energy Code on a daily basis, California and CHEERS will not have lead the path as they have in the past. Home Developers and New homeowners will be at odds as to the accuracy of the installations that Energy Sense has done and to what integrity. The bottom line for CHEERS and RATERS is intention and integrity. Can that be insured by CHEERS if the profit of a Company is based so heavily on the same company installing as the verifier or certifier. We all see it on a daily basis, it doesn't work. And now it involves Public Goods monies. At some point Robert, it will be addressed, and when it does, I will be there. And even if it is adverse to my stance and what you say is your stance, then the World will have lost, because the energy will not have been saved and the overriding concern for profit by the non independent rater companies (Mascos) will have won. It is on us to remedy this situation, or children and their future are at stake. The future of building Green house gas emissions is the really enemy here. dave

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From: Robert Scott [mailto:rscott@cheers.org]
Sent: Wednesday, July 09, 2008 6:54 AM
To: Dave Hegarty
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Dear Dave:

I have informed members of the CHEERS Board of Directors of your most recent email.

I am surprised of your claim that CHEERS has not responded in writing to your complaint. Given that your formal complaint was made via email I have responded to the issue in kind. I am attaching the following email messages sent to you on these dates: 4/29, 5/2, 5/15, 6/9, 6/12 and have listed them for you below:

4/29 – SUBJECT: MASCO Complaint – Acknowledgement of receipt of your complaint
5/2 – SUBJECT: MASCO Follow-up – Forward of CHEERS Letter to CEC
5/15 – SUBJECT: RE: Masco – Status
6/9 – SUBJECT: RE: Masco Revised – Acknowledgement of revised Lilly complaint to CEC

6/12 – SUBJECT: MASCO Complaint – Recommendations for changes to revised Lilly complaint to CEC

Please let me know if you would like these in hard copy, as well as and future communications on this matter sent to you by mail.

I want to point out that there are two complaint processes referenced in Title 20. The one you have invoked with CHEERS was originally intended to address consumer-related problems as opposed to business-to-business complaints. Thus it is not specifically responsive to this situation, which has clearly identified the need for more clear procedures for the latter type complaint.

Title 20 1673 (h)(3) Complaint response system. Each provider shall have a system for receiving complaints. The provider shall respond to and resolve complaints related to ratings and field verification and diagnostic testing services and reports. Providers shall ensure that raters inform purchasers and recipients of ratings and field verifications and diagnostic testing services about the complaint system. Each provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the provider

CHEERS takes the specific allegations in your complaint seriously and the process we must follow must consider the one which the CEC has set out for themselves in Title 20, which in summary is:

1. Complaint proceedings address alleged violations of statutes, orders, decisions or regulations of the CEC; investigation proceedings address the applicability of statutes, etc. So we are talking complaint proceedings.
2. Any person may file a complaint; it's filed with the General Counsel of the CEC and under penalty of perjury.
3. Within 30 days after receipt of complaint, it's dismissed or served on respondent.
4. Within 30 days after service, an answer is required.
5. Within 90 days after receipt of complaint, a hearing commences before an assigned committee or hearing officer.
6. Within 14 days after hearing, "to the extent reasonably possible," a proposed decision is made available.
7. Matter is scheduled for consideration by full commission "at the earliest reasonable date."

I assure you that CHEERS is interested in resolving this situation so that we can get on with the real object of our work.

I am away from the office for the remainder of the week and will not be available until Monday.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

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This message is for the designated recipient only and may contain privileged or confidential information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of this e-mail by you is prohibited.

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Monday, July 07, 2008 7:05 AM
To: Robert Scott
Subject: FW: Masco, Energy Sense and Conflict of Interest rules

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From: Dave Hegarty
Sent: Saturday, July 05, 2008 1:37 PM
To: Robert Scott

Cc: 'John Richau'
Subject: Masco, Energy Sense and Conflict of Interest rules

Dear CHEERS:

This will be the third time I am writing you and charging The BOARD of CHEERS, as to the most apparent CONFLICT OF INTEREST RULES violation by Energy Sense, A MASCO Company. Masco is doing business in the State of California and under their wholly owned subsidiary ENERGY SENSE and with CHEERS accreditation in violation of the Conflict Of Interest Rules and guidelines. I have charged the Board and Robert Scott with investigating and determining the charges that Masco is operating in without fear under CHEERS accreditation and in violation. Please see the guidelines herein cut and pasted directly from the CEC explanations:

CEC-400-2005-005-CMF

Revision 3

2. Compliance and Enforcement

Page 2-16 - Compliance and Enforcement – Roles and Responsibilities

Example 2-7
Question
I heard that there are conflict-of-interest requirements that HERS raters must abide by when doing field verification and diagnostic testing. What are these requirements?
Answer
HERS raters are expected to be objective, independent, third parties when they are fulfilling their duties as field verifiers and diagnostic testers. In this role they are serving as special inspectors for local building departments. By law HERS raters must be independent entities from the builder or subcontractor installer of the energy efficiency features being tested and verified. They can have no financial interest in the installation of the improvements. HERS raters cannot be employees of the builder or subcontractor whose work they are verifying. Also, HERS raters cannot have any financial interest in the builder's or contractor's business or advocate or recommend the use of any product or service that they are verifying. Section 106.3.5 of the CBC prohibits a special inspector from being employed (by contract or other means) by the contractor who performed the work that is being inspected.
The Energy Commission expects HERS raters to enter into a contract with the builder (not with sub-contractors) to provide independent, third-party diagnostic testing and field verification, and the procedures adopted by the Energy Commission calls for direct reporting of results to the builder, the HERS provider, and the building official. Although the Energy Commission does not recommend it, a "three-party contract" with the builder is possible, provided that the contract delineates both the independent responsibilities of the HERS rater and the responsibilities of a sub-contractor to take corrective action in response to deficiencies that are found by the HERS rater. Such a "three-party contract" may also establish a role for a sub-contractor to serve as contract administrator for the contract, including scheduling the HERS rater, invoicing, and payment provided the contract ensures that monies paid by the builder to the HERS rater can be traced through audit. It is critical that such a "three-party contract" preserves rater independence in carrying out the responsibilities specified in Energy Commission-adopted field verification procedures. Even though such a "three-party contract" is not on its face in violation of the requirements of the Energy Commission, the closer the working relationship between the HERS rater and the sub-contractor whose work is being inspected, the greater the potential for compromising the independence of the HERS rater.

CHEERS and CalCERTS have been approved by the Energy Commission to serve as HERS providers to certify and oversee HERS raters throughout the state. These providers are required to provide ongoing monitoring of the propriety and accuracy of HERS raters in the performance of their duties and to respond to complaints about HERS rater performance. In cases where there may be real or perceived compromising of HERS rater independence, they are responsible for providing increased scrutiny of the HERS rater, and taking action to ensure objective, accurate reporting of diagnostic testing and field verification results, in compliance with Energy Commission adopted procedures.

Building officials have authority to require HERS raters to demonstrate competence, to the satisfaction of the building official. Building officials should place extra scrutiny on situations where there may be either real or perceived compromising of the independence of the HERS rater, and exercise their authority to disallow a particular HERS rater from being used in their jurisdiction or disallow HERS rater practices that the building official believes will result in compromising of HERS rater independence.

Please note the highlighted text and the third sentence. I understand this is an issue that has come to the Board on several occasions without resolve. As a certified CHEERS HERS Rater, I have asked CHEERS and I have provided written requests for investigation. I have provided first and second hand documentation to CHEERS which I am sure has made its way to BOARD members. I have not received anything in writing back from the BOARD as to investigations being implemented or actions taken on this matter. It is clear in this paragraph above that CHEERS has an obligation to provide "increased scrutiny of HERS raters" under the CONFLICT OF INTEREST RULE. I was told that an investigation would be done based on my request in writing, and that it would occur within 30 days. The results of any investigation that was promised and is part of the CEC charge to Providers has not been receive to this date. My request was made more than 90 days ago. I ask with all due respect, when will any investigation take place and when might we expect a determination based on an investigation to arrive in our hands? And along this same vein, I have requested, in writing, a dispute or request for investigation procedure from CHEERS and have not received it to date. I have talked with Tav Cummins at the CEC and he informs me that all Providers must have a complaint system and procedure for investigation of complains in written form for Raters and the public to access. Is this true and, if so, when might I expect that policy?.

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As you know, Bill Lilly of California Living and Energy, has submitted a written formal complaint to the CEC for request for and determination of, the Masco violation. I am privileged to support that document and request and ask CHEERS to also honor that request as a formal, written request for CHEERS formal investigation into the matter. His documentation is open to your scrutiny and I will provide (have already done so) copies of and additional information as to the matter and happenings. It is still my contention that whatever the violations or lack of quality of inspection having been done by Masco Raters, is not the real issue. But that Masco is, as a corporate owner of Energy Sense with better than the allowable financial interest, in violation of the CONFLICT OF INTEREST rule because of the ownership share and their "stake" in the builders business and that they continue to recommend their products to the builder at a discounted service under ENERGY SENSE.

CHEERS has the sole obligation to remedy the situation and the accreditation of Masco's Energy Sense in the State of California, because they are charged with that responsibility under the CEC rules. I hope you will take seriously this issue

and provide Leadership in the effort to maintain a higher standard in the HERS industry, as the CHEERS BOARD has accomplished in the past. It was the CEC's forethought and wise determination that the HERS Rater should be a "TRUE Third Party" to the building industry to provide the REAL ENERGY saving that is so desperately needed then, and now in our world. It is all RATERS who look to you, the CHEERS BOARD, for the Leadership to guide and to determine the rights and wrongs that are going on in the industry. Your effort to educate and instruct to this date, is legendary, and this same credibility should be and needs to be maintained in issues such as this one. Thank you.

Sincerely,

Dave Hegarty, CHEERS RATER

Internal Virus Database is out of date.
Checked by AVG - http://www.avg.com
Version: 8.0.134 / Virus Database: 270.4.4/1532 - Release Date: 7/3/2008 8:32 AM

Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Monday, July 14, 2008 12:58 PM
To: Robert Scott
Subject: personal

Robert: it is with great regret I received your email today. I cannot imagine that you can be the least bit confused by the task at hand or the request for formal investigation. The only Confusing issue here is "WHY IS CHEERS STALLING TO MAKE A DETERMINATION' AND WHY DOES CHEERS REALLY NOT WANT TO ADDRESS SOMETHING THAT IS GOOD FOR THE INDUSTRY AND GOOD FOR ALL RATERS", even the raters that are employed by Masco. IT IS CLEARLY IN THE BEST INTEREST OF CALIFORNIA AND THE HERS INDUSTRY, AND CLEARLY NOT GOOD FOR BOTH OF THESE IF IT CONTINUES. CALCERTS HAS STATED THAT THEY WILL NOT CERTIFY MASCO BECAUSE OF THE CONFLICT OF INTEREST. WHY IS CHEERS RELUCTANT AND IN A DODGE MODE!

Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Wednesday, July 23, 2008 6:30 PM
To: Robert Scott
Subject: determinations

Robert: I still have not heard hide nor hair about the continued issue of Masco certification by CHEERS authority. I still have not gotten a "promised determination" on the issue of Masco's ability to HERS rate the very installations of energy measures called out in the T-24s. A determination as to their ability to operate in the face of the CEC Title 20 rules on Conflict of Interest. I have not been provided with CHEERS process for investigation and determination of these kinds of processes, required to be in place and accessible to the public and RATERs. More than 90 days have gone by without response to the issues or processes. When can we expect CHEERS and the Board of CHEERS to provide a complaint system for such issues and when might we have a determination on the Masco situation as they operate and brag about operating under the CHEERS umbrella with all authority provided by CHEERS?
I hope this is understandable and straight forward in its meaning. Thanks Dave Hegarty

Robert Scott

From: Robert Scott
Sent: Tuesday, August 05, 2008 8:21 AM
To: Dave Hegarty
Subject: Energy Sense Investigation Update

Dave:

I wanted to update you: CHEERS is currently in communication with Energy Sense's legal counsel. There are some timing delays on both CHEERS' and their parts. Don't expect anything more until after Aug 18th, when I should provide additional updates.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Tuesday, August 05, 2008 8:52 AM
To: Robert Scott
Cc: john@certified-ec.com; Tommy Young; Amy Chen; Bert Sanchez; Bill Dakin; Don Hegarty; FDupre@ConSol.ws; Karen Williams; Rosie Smith
Subject: RE: Energy Sense Investigation Update

Robert: I know you don't see this in the same light as I do and for that matter CEC and the Tile 20 rules. I am saying and charging CHEERS with making a determination after an investigation (for which you have no current procedure in place in writing). CHEERs is sitting on this awaiting CEC to make a decision and CEC has already stated that it is CHEERS certification of MASCO and therefore if Masco is found to be in violation then CHEERS too is in violation. I don't think that CHEERS understands the magnitude of the charges I have made to them in writing. CHEERs is the Certifier, CHEERS alone stands as the organization that has misinterpreted Title 20 and the conflict of interest rules. The CEC is your Certifier. They approve CHEERS for the Providership. Therefore, I once again I charge CHEERS and the Board with making a decision as to the validity of the Masco Certification, from investigation by CHEERS with established procedures published for the public to access and to use, as provided for in the Title 20 rules. CHEERS is allowing the CEC to make a decision that is the responsibility (as Bill Pennington said at our March 2008 meeting) investigate and determine the extent of any violation of the rules under Title 20 as administered through CEC and Certified by CHEERS. It is my understanding that this is the ruling that will be handed down from CEC to CHEERS and that then the Clock will start for CHEERS. But in reality, I have made the request to CHEERS to investigate the matter of Masco's violation of the Title 20 conflict of interest rules in March of 2008 to CHEERS and you personally as well as in writing. The Board must determine for themselves either Masco is or is Not in violation of the conflict of interest rules and cannot skirt this issue any longer. This is exactly why the interests of the raters are a major concern for many raters as the providers speak for the Raters at the CEC level. I am again requesting a formal investigation by CHEERS into the Masco conflict of interest rules violations. That a determination is made by CHEERS independently of any CEC rulings, and in compliance with their obligation under their Providership and certification by the CEC. I urge you to take seriously the obligation and the concern for which this charge has been leveled. Thank you so much for your attention to this matter.

Dave Hegarty

From: Robert Scott [mailto:rscott@cheers.org]
Sent: Tuesday, August 05, 2008 8:21 AM
To: Dave Hegarty
Subject: Energy Sense Investigation Update

Dave:

I wanted to update you: CHEERS is currently in communication with Energy Sense's legal counsel. There are some timing delays on both CHEERS' and their parts. Don't expect anything more until after Aug 18th, when I should provide additional updates.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Monday, August 11, 2008 6:56 PM
To: Robert Scott
Subject: Membership and Board membership

Robert: Please consider this as a request from me to CHEERS as to the Board Membership and a full Rater membership roster. I would like to lobby the Board and request copies of the Board meetings under the Public information Act. I would like the Roster for contacting the membership as to the board proceedings. Thank you so much. dave

Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Thursday, August 14, 2008 6:14 PM
To: Robert Scott
Attachments: Specific Provider Requirements ofTitle 20.pdf

Robert: Here is a highlighted copy of the Title 20 rules on Conflict of Interest and of the Providers responsibilities under their CEC certification. It clearly defines CHEERS role and Responsibility for Certifying to CEC that the rater, under the Rater Agreement must meet the Conflict of Interest Rules and for CHEERS to acknowledge and certify that it is true, they are not in violation of the conflict. I charge the BOARD and you with answering to this charge. While I have asked you to provide me with the method and system for filing charges (which I have filed with you in the past and no paperwork was required, for which you acted) and you have refused, (not providing me with the written process as required by the Title 20 Providers responsibility is the same as refusing) I have no other coarse but to try and seek a reasonable and legally acceptable course of action, such as this email, as a vehicle for the process that CHEERS and your Board refuses to respond. Therefore I am asking you to accept this reasonable request and procedure for investigation of Masco as Conflict of Interest violations under the Title 20 as here produced. This request for investigation is in response to your response to me on Monday August 11, 2008 at 2:00 p.m. in the afternoon. And your response was that you were only investigation the actions of and the knowledge of Raters under the Masco Umbrella, because it is your position (and possibly the Boards) that CHEERS Certifies the Rater not the Agency. But as you know, the Truth is that Masco Paid for the Class that the Masco/Energy Sense Raters attended and were taught by CHEERS authority. In other words, Your assumption that CHEERS certified the individual raters is incorrect, given that Masco paid each and every rater in attendance, fees for certification as well as wages. And therefore CHEERS is soley responsible for Masco certification and the individuals belonging to Masco. They are Masco Employees and Masco owns Energy Sense entirely as well as insulation companies and window companies that install energy conservation measures controlled by the CEC and the California Energy Code, describe clearly in Title 20 section 1673, as a conflict of interest. Surely other agencies have paid for individuals to attend and be certified as a HERS rater, but those agencies were not in conflict with or in violation of the Conflict of interest rules as provided in section 1670 through 1675. And furthermore, The raters and agencies that have done so, have not openly and without fear of prosecution solicited other Masco business as a result of their HERS certification. By the way, The reverse of that is also true, as I have described in detail to you in many emails, that Masco has given discounts on other products and services they produce and install to solicit Masco HERS services and Masco products and services in other areas. If you don't remember, it was with Renovo Homes in the Sacramento area with PG&E personnel present. It is with this charge that I urge you to take seriously, that I am forced to find a "reasonable vehicle" for the procedures to "CHARGE" CHEERS with this task and violations and ask for investigation of the Masco violation of Title 20.
As a separate issue, CHEERS is obligated to produce in writing the systems and processes for "Complaint Response System" as required in section 1673 H(3) under Title 20. As a Rater and as a Certified CHEERS Rater, CHEERS as a 503C Corporation, and as Director, you are obligate to answer this letter or review and deny the charges herein. As a 503 C CHEERS is required to be a "public benefit" agency. I Respectfully request an answer to these charges that addresses the real issues stated herein. If you are not answering because of a legal obligation or are under legal advice not to do so, please state so formally in writing. As a rater, I would find it offensive if CHEERS is not responding to their obligations under Title 20, to its Raters, the raters that they have often said they are serving. Robert this has become a serious situation.

Dave Hegarty

Robert Scott

From: Robert Scott
Sent: Friday, August 15, 2008 12:16 PM
To: Dave Hegarty
Subject: RE:

Dave:

I have forwarded this to CHEERS legal counsel for review and will have a formal reply for you next week.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

NOTICE:

This message is for the designated recipient only and may contain privileged or confidential information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of this e-mail by you is prohibited.

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Thursday, August 14, 2008 6:14 PM
To: Robert Scott
Subject:

Robert: Here is a highlighted copy of the Title 20 rules on Conflict of Interest and of the Providers responsibilities under their CEC certification. It clearly defines CHEERS role and Responsibility for Certifying to CEC that the rater, under the Rater Agreement must meet the Conflict of Interest Rules and for CHEERS to acknowledge and certify that it is true, they are not in violation of the conflict. I charge the BOARD and you with answering to this charge. While I have asked you to provide me with the method and system for filing charges (which I have filed with you in the past and no paperwork was required, for which you acted) and you have refused, (not providing me with the written process as required by the Title 20 Providers responsibility is the same as refusing) I have no other coarse but to try and seek a reasonable and legally acceptable course of action, such as this email, as a vehicle for the process that CHEERS and your Board refuses to respond. Therefore I am asking you to accept this reasonable request and procedure for investigation of Masco as Conflict of Interest violations under the Title 20 as here produced. This request for investigation is in response to your response to me on Monday August 11, 2008 at 2:00 p.m. in the afternoon. And your response was that you were only investigation the actions of and the knowledge of Raters under the Masco Umbrella, because it is your position (and possibly the Boards) that CHEERS Certifies the Rater not the Agency. But as you know, the Truth is that Masco Paid for the Class that the Masco/Energy Sense Raters attended and were taught by CHEERS authority. In other words, Your assumption that CHEERS certified the individual raters is incorrect, given that Masco paid each and every rater in attendance, fees for certification as well as wages. And therefore CHEERS is soley responsible for Masco certification and the individuals belonging to Masco. They are Masco Employees and Masco owns Energy Sense entirely as well as insulation companies and window companies that install energy conservation measures controlled by the CEC and the California Energy Code, describe clearly in Title 20 section 1673, as a conflict of interest. Surely other agencies have paid for individuals to attend and be certified as a HERS rater, but those agencies were not in conflict with or in violation of the Conflict of interest rules as provided in section 1670 through 1675. And furthermore, The raters and agencies that have done so, have not openly and without fear of prosecution solicited other Masco business as a result of their HERS certification. By the way, The reverse of that is also true, as I have described in detail to you in many emails, that

Masco has given discounts on other products and services they produce and install to solicit Masco HERS services and Masco products and services in other areas. If you don't remember, it was with Renovo Homes in the Sacramento area with PG&E personnel present. It is with this charge that I urge you to take seriously, that I am forced to find a "reasonable vehicle" for the procedures to "CHARGE" CHEERS with this task and violations and ask for investigation of the Masco violation of Title 20.

As a separate issue, CHEERS is obligated to produce in writing the systems and processes for "Complaint Response System" as required in section 1673 H(3) under Title 20. As a Rater and as a Certified CHEERS Rater, CHEERS as a 503C Corporation, and as Director, you are obligate to answer this letter or review and deny the charges herein. As a 503 C CHEERS is required to be a "public benefit" agency. I Respectfully request an answer to these charges that addresses the real issues stated herein. If you are not answering because of a legal obligation or are under legal advice not to do so, please state so formally in writing. As a rater, I would find it offensive if CHEERS is not responding to their obligations under Title 20, to its Raters, the raters that they have often said they are serving. Robert this has become a serious situation.

Dave Hegarty

Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Friday, August 15, 2008 12:19 PM
To: Robert Scott
Subject: RE:

Thank you Robert, dave

From: Robert Scott [mailto:rscott@cheers.org]
Sent: Friday, August 15, 2008 12:16 PM
To: Dave Hegarty
Subject: RE:

Dave:

I have forwarded this to CHEERS legal counsel for review and will have a formal reply for you next week.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

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Sent: Thursday, August 14, 2008 6:14 PM
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Subject:

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insulation companies and window companies that install energy conservation measures controlled by the CEC and the California Energy Code, describe clearly in Title 20 section 1673, as a conflict of interest. Surely other agencies have paid for individuals to attend and be certified as a HERS rater, but those agencies were not in conflict with or in violation of the Conflict of interest rules as provided in section 1670 through 1675. And furthermore, The raters and agencies that have done so, have not openly and without fear of prosecution solicited other Masco business as a result of their HERS certification. By the way, The reverse of that is also true, as I have described in detail to you in many emails, that Masco has given discounts on other products and services they produce and install to solicit Masco HERS services and Masco products and services in other areas. If you don't remember, it was with Renovo Homes in the Sacramento area with PG&E personnel present. It is with this charge that I urge you to take seriously, that I am forced to find a "reasonable vehicle" for the procedures to "CHARGE" CHEERS with this task and violations and ask for investigation of the Masco violation of Title 20.

As a separate issue, CHEERS is obligated to produce in writing the systems and processes for "Complaint Response System" as required in section 1673 H(3) under Title 20. As a Rater and as a Certified CHEERS Rater, CHEERS as a 503C Corporation, and as Director, you are obligate to answer this letter or review and deny the charges herein. As a 503 C CHEERS is required to be a "public benefit" agency. I Respectfully request an answer to these charges that addresses the real issues stated herein. If you are not answering because of a legal obligation or are under legal advice not to do so, please state so formally in writing. As a rater, I would find it offensive if CHEERS is not responding to their obligations under Title 20, to its Raters, the raters that they have often said they are serving. Robert this has become a serious situation.

Dave Hegarty

No virus found in this incoming message.
Checked by AVG - http://www.avg.com
Version: 8.0.138 / Virus Database: 270.6.3/1613 - Release Date: 8/15/2008 5:58 AM

Robert Scott

From: Robert Scott
Sent: Friday, September 05, 2008 3:58 PM
To: Dave Hegarty
Subject: Phone message to CHEERS legal counsel

Dave:

CHEERS Legal Counsel has been out of town all week, so she asked me to email you in response to your voicemail message to her.
Since legal proceedings are ongoing at the CEC, she, like everyone associated with CHEERS, is unable to speak with you.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

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Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Tuesday, September 09, 2008 8:35 AM
To: Robert Scott
Cc: H Thomas Beck
Subject: RE: Phone message to CHEERS legal counsel

Robert: it is clearly a violation for CHEERS to ignore the request for a policy and procedure regarding complaints. It is clearly required under the CEC Title 20 rules. I have in good faith requested that of your attorney and of CHEERS. And your promises to complete tasks that you yourself chose, have not been completed. This is exactly why a Rater organization is necessary in light of the human nature of Protecting themselves and cover up. I urge you to comply with the request for Written complaint process that you say you have, that you say you wrote some years ago, and you say you cannot find. You also told me that it is still in your head, but you have not written it down for us to look at and for me to file a complaint.

So please pass this along to your attorney , requesting that the board of CHEERS respond to the request for complaint process (which has nothing to do with MASCO issues, but is a clear requirement of Title 20). And quite frankly, Robert this is quite a distressing attitude that CHEERS is promoting. It is now very difficult for CHEERS to truly say and mean that they REPRESENT THE RATER AND THE RATER INTEREST.

If this needs to be in a more formal vehicle such as a formal letter to be accepted by your Board or Attorney, please notify me in writing. Unfortunately Robert this is not the kind of situation we had hoped for, and CHEERS is leaving no road for compromise and cooperation. I urge the Board to reconsider their position. Dave Hegarty

---

From: Robert Scott [mailto:rscott@cheers.org]
Sent: Friday, September 05, 2008 15:58
To: Dave Hegarty
Subject: Phone message to CHEERS legal counsel

Dave:

CHEERS Legal Counsel has been out of town all week, so she asked me to email you in response to your voicemail message to her.
Since legal proceedings are ongoing at the CEC, she, like everyone associated with CHEERS, is unable to speak with you.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

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Robert Scott

From: Robert Scott
Sent: Thursday, September 11, 2008 7:47 AM
To: Dave Hegarty [DaveHegarty@ducttesters.com]
Cc: H Thomas Beck
Subject: CHEERS Response to RE: Phone message to CHEERS legal counsel
Attachments: CHEERS response to your inquiries

Dave:

I am surprised at your claim that CHEERS did not respond to your request for the written complaint process. My email to you of 8/22/2008 with the subject: "CHEERS response to your inquiries" (attached), contains the specific provision relating to the complaint response system that was included with CHEERS' CEC approval as a HERS Provider. I will not reiterate the same information here and suggest that you read my complete response in the attached email. As the CEC is currently in a rulemaking to update Title 20, CHEERS is preparing to update a number of provisions from its initial approval under the regulations, including a more detailed complaint response system that will be presented to the Raters following CHEERS anticipated approval when the revised rules become effective.

And while you insist that this current request "...has nothing to do with Masco issues", your repeated demands of me and the CHEERS Board through email and telephone calls consistently link back to that singular topic. In order to refresh your memory of the dialogue we have had on the subject for the past months, below I have included the emails that we have exchanged over the past months. While you may not agree with the responses, I have made reasonable efforts to address your concerns and inquiries where I can . With this matter now being decided by the California Energy Commission, CHEERS looks forward to the guidance that any action might provide .

I reiterate CHEERS' position regarding communication, and please understand CHEERS will be acting in accordance with the following advice received from CHEERS Legal Counsel:

1. CHEERS does not comment on ongoing legal proceedings.
2. The State of California investigation takes legal precedence, and the State of California decision controls.
3. CHEERS expects full and fair legal proceedings and looks forward to the final decision which will provide legal precedent and legal guidance.
4. When a final decision is made, CHEERS will act in accordance with the decision.
5. When a final decision is made, it will have been made by the State of California. All parties should respect and defer to the proceeding while it is ongoing, and act in accordance with the decision.

Until this matter has been fully adjudicated, please refrain from contacting myself or anyone associated with CHEERS.

Sincerely,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

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From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Friday, March 21, 2008 8:40 AM
To: 'Robert Scott'
Subject: Masco

Robert Scott: this email will express my opinion of this issue. As we discussed at the meeting at CEC headquarters in Sacramento, with Bill Pennington, Bill Staack, Tav and the new compliance associate 9sorry I have forgotten his name), It is also the concern of CHEERS as to validity of the Certification of Masco's Energy Sense Company for certification to CHEERS the Provider. It was discussed at this meeting that CHEERS has some responsibility to the CEC and the State Regs, not to certify individuals or Companies that are in violation of, or has a REAL or PERCEIVED conflict on interest in violation of the code of Title 20. Although the issue was not settled at this meeting as to whether or not there is a unique responsibility to CHEERS and that CHEERS has responsibility to judge for themselves whether or not there is a conflict, it is my belief that the meeting members and Title 20 clears allows CHEERS to distinguish or judge the matter. So if we know that Masco owns and operates the Energy Sense company, that the employees are MASCO/Energy Sense employees paid through Masco, and along with all the questions in Mr. Staack's letter, at least C HEERS has some obligation to make known its sense of things and or determine (however prematurely) a position on the details of this issue. Such as in the Sawyer/WallenAir Care case, if it is wrong action must follow. If you need this to be a formal complaint, I would hope this complies. Thanks Dave

DuctTesters
by Dave Hegarty

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Tuesday, April 08, 2008 9:52 PM
To: Robert Scott
Subject: Title 20 1673

Robert: just to confirm that you received the change to the email and that it is a in fact now a complaint under the Title 20 1673 ((3) Complaint response system. Each provider shall have a system for receiving

complaints. The provider shall respond to and resolve complaints related to ratings and field

verification and diagnostic testing services and reports. Providers shall ensure that raters

inform purchasers and recipients of ratings and field verifications and diagnostic testing

services about the complaint system. Each provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the provider.

I am looking for a formal response to the complaint or a correspondence on how to proceed to this end. While the above quote does not directly state the issues surrounding my complaint regarding MASCO, it would appear it comes under this heading and responsibility. What do you think? Thanks Dave

DuctTesters
by Dave Hegarty

From: Robert Scott [mailto:rscott@cheers.org]
Sent: Wednesday, April 09, 2008 9:35 AM
To: davehegarty@ducttesters.com
Cc: Douglas Beaman; Dawn Carton
Subject: RE: Title 20 1673

Dave:

In the email that you sent and that I am now replying to, you have asked me to "confirm that you received the change to the email and that it is a in fact now a complaint". I am not sure what email you are referring to, as I was included as a recipient in earlier one you sent with the subject "Financial Conflict of Interest".

In order to be as clear as possible, I need you to send me a single document that details the specific allegations of your complaint. Once I receive this, I will review the information with CHEERS Legal Counsel and determine further action. As you know, the CEC has been looking into this issue for about two years, before I came on board, and CHEERS has been cooperating with all of their requests.

I request that any information you can submit be provided in writing, so that the record is clear and we can address all relevant issues.

Thank you for your help and interest in ensuring a strong HERS industry.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Wednesday, April 09, 2008 11:22 AM
To: Robert Scott
Subject: RE: Title 20 1673

Robert: thank you for your response to my latest email. And you are correct in that you were actually a recipient in the original email, but then I readdressed that same email to you directly as it relates to CHEERS and those issues. In the email it clearly spelled out my concerns and the concerns that I heard at the meeting Bill Lilly and I had at the CEC with Bill Pennington and Group. I have forwarded to you via snail mail (USPS) the same information that was given to CEC at the meeting March 12, 2008 I believe. The email I am referring to is dated March 21st, I believe. It is the one I first addressed in error to Bill Lilly and then readdressed it to you at CHEERS. I certainly do so much appreciate that CHEERS takes this and complaint issues in general seriously. My goal here is to be in compliance with the CEC rules on the Masco Matter, due to all the shifting and posturing of responsibility that has taken place. We have a serious matter at hand and it is my belief, a serious violation of CEC 1634 regulations as well as the state rules on Conflict of Interest rules for contractors as quoted in the CEC regulations under 1670 thru 1674 and so eloquently set forth in their examples throughout the CEC standards, manuals and training materials. Again, if you have not received the packet of information compiled by Bill Lilly and presented to CEC on that above mentioned date, please let me know so that I can get that to you or contact Bill Lilly's office for your copy. I will do everything in my realm to assist you with the documentation and or information you need to comply with the standards. It is significant to note that CHEERS has understood that the CEC has been working on this matter for two years, that is exactly our understanding of the matter, however CEC in our meeting would not commit to that length of time even though Bill Lilly had documents to show that very fact. Regardless, that is the nature of what we are working with, so as to not continue to make mistakes that can be misconstrued by anyone, I am crossing the T's and dotting the I's on all fronts including CHEERS. I cannot express my concern enough for that very fact that we had (you and I) this very conversation just two weeks ago and we are still issuing "informal complaint" understandings. I am requesting a formal complaint issued as to this matter (Masco working under Energy Sense, as a whole owned subsidiary of MASCO) and in what clearly, form many raters perspective is a violation of the CEC regulations regarding "CONFLICT OF INTEREST" rules in Title 20, in the RACM manual and in their examples of Conflict of Interest statements as well as training material. Even to the point of citing the other State rules governing this issue as stated in 1670 through 1674. So as you can see, each time we feel we have this nailed down as a formal complaint, either with CEC or with the Provider, under the CEC rules, we are again mistaken. I read in the Title 20 that Providers must have a "formal complaint process" and so, not knowing of CHEERS formal complaint process, I have put it in writing for CHEERS to deal with on a Formal basis. I hope that clarifies for you and CHEERS my concerns and addresses any issues that arise from this "formal process". Thanks Dave

---

From: Robert Scott
Sent: Tuesday, April 29, 2008 8:58 AM
To: davehegarty@ducttesters.com
Subject: MASCO Complaint

Hello Dave:

I have received your formal complaint regarding Energy Sense and have initiated a proceeding to address the issues you have identified. CHEERS will provide a complete response to you, including a statement of actions that may be pursued as a result of our investigation. You should allow up to 30 days for us to respond.

Thank you for your help and interest in ensuring a strong HERS industry.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Tuesday, April 29, 2008 10:03 AM
To: Robert Scott
Subject: RE: MASCO Complaint

Robert: We thank you and CHEERS for your attention to this matter. We believe that CHEERS has the best of intentions for Raters and that a strong HERS industry ensures our children and their children of resources and energy that otherwise would be eaten up by people and companies within the industry looking for "workarounds" to enhance bottom lines and not the full intent of the community at large under the CEC rules. We will look forward to your response and efforts concerning this matter. Dave Hegarty, DuctTesters, Inc.

From: Robert Scott
Sent: Friday, May 02, 2008 7:09 AM
To: davehegarty@ducttesters.com
Subject: MASCO follow-up

Hello Dave:

I wanted to forward the text from a letter that the CHEERS Legal Counsel sent to the CEC. I will continue to keep you apprised as things progress.

Best Regards,

Robert A Scott, CHEERS

Executive Director

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Wednesday, May 14, 2008 2:24 PM

To: Robert Scott
Subject: Masco

What's up with the Masco situation, have you heard anything or should I keep my mouth shut for a while longer?
Dave

DuctTesters "Verifying Energy Efficiencies Accurately"

Dave Hegarty
Principle

DuctTesters
615 13th Street
Modesto, California 95354

davehegarty@ducttesters.com
AIM: davedbhgrty

tel: 209 579-5000
mobile: 209 595-8000

From: Robert Scott
Sent: Thursday, May 15, 2008 8:02 AM
To: davehegarty@ducttesters.com
Subject: RE: Masco

Hello Dave:

I was out yesterday, thus my late reply.

I would appreciate your confidence a bit longer. It is a bit more complicated because the CEC says they have not received any official or formal complaint and have no guidance for us on the issue. This is an important issue that I want to resolve and it high on my list. The CHEERS attorney is not available until next week therefore I am unable to get counsel on the matter until then.

Best Regards,

Robert A Scott, CHEERS
Executive Director

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Friday, May 16, 2008 1:36 PM
To: Robert Scott
Subject: RE: Masco

Robert: your email or formal writing to them about this issue is in itself a FORMAL complaint isn't it? And shouldn't it be? And by the way, I request (politely) that CHEERS does put it to them as such. It is Public Goods money being paid out to the Masco Group and (in my opinion) in violation of the Standards and Title 20. I would request, if you have not done so and as part of CHEERS Rater organization, request that the CEC view your request as a formal request for investigation into the matter and a clarification of the situation as it now stands, IS IT A VIOLATION OF THE STANDARDS AND TITLE 20 OR NOT. That is exactly what you asked of them in your letter so, in fact it should be brought to their (CEC) attention that they have the obligation to investigate this issue as well as CHEERS now because you have formally involved them.

Robert: on a personal note this is exactly why the CEC rules and regulations are ambiguous and unclear and exactly why there is so much ignorance and ignoring of their rules. I still see it as a CHEERS issue as to making the decision (whether it be formally or investigation) as to the validity of the situation that exists within the MASCO/Energy Sense situation. It is as much a responsibility of CHEERS and CEC, each individually, to come to their own conclusions as to the violation or legality of this entity. CHEERS is empowered by CEC to make that call and to investigate, such as in the Sawyers issue, whether or not the certification is correct or not, of Masco's Energy Sense. Please consider this email as a formal record of our request for investigation to this issue of violation in the Masco/Energy Sense issue and their Certification under the Title 20/ CHEERS program. Thanks so much, Dave

---

From: Robert Scott
Sent: Thursday, June 12, 2008 9:34 AM
To: davehegarty@ducttesters.com; Scott Johnson
Subject: MASCO Complaint

Dave & Scott:

Sorry for the delay in getting back to you, but I wanted to get legal counsel before I responded. CHEERS' goal is to see resolution to this once and for all. From what we saw in both the complaint and attached documents, the reference in the complaint, Part III, Item E., that Lilly provides does little to address resolving the problem. I have been advised by CHEERS Legal Counsel that this part of the complaint's argument is weak. Additionally, because this reference is listed among the 'instances' of MASCO and Energy Sense's violation of the code, it puts a former employees who can no longer speak to the issue in an awkward position, plus it diverts attention from the real issue. If you can get Lilly to remove Part III, Section E., then CHEERS will be in a much better position to work proactively with the CEC in setting precedent on the issue of conflict of interest in the regulations.

Here is the CHEERS position:

On April 12, 2006, Bill Lilly sent an email to Tav Commins re: 3rd party violation; it included the following:

> **"Below is Tom's response...**
>
> **Coast Building products does have raters that are certified by CHEERS. Concerning the projects you mention nothing is happening with them at this point. Pulte has been releasing the bid specs for the projects and Pulte is reviewing the submitted bids for their projects. Coast Building products is fully aware of the regulatory requirements and supports the intent of the CEC regulations. Due to their internal quality assurance Coast Building products is pursuing all appropriate approaches including, but not limited to the "three-party agreement" to ensure their client (Pulte) realizes they are receiving a valuable service, not just a service that is an expense."**

On July 10, 2006, Hamilton ceased to be executive director of CHEERS.

On August 22, 2006, CHEERS received from CEC the following message:

> **From: Tav Commins [mailto:Tcommins@energy.state.ca.us]**
>
> **Sent: Tuesday, August 22, 2006 2:34 PM**
> **To: doug@dougbeaman.com; Bill Pennington**
> **Cc: Melinda Merritt**
> **Subject: RE: Contact information for MASCO**
>
> **Wanted to let you know that I talked to Dave Bell at Masco about a possible conflict with MASCO starting up a new HERS testing service that will check their own work. I sent him the attached which are all the requirements regarding conflict of interest. I asked Dave to send us a letter how this new company does not defy our conflict of interest requirements.**
>
> **Tav**

<u>CHEERS COMMENT</u>:

As of August 22, 2006, CEC took ball in its court--the best place for the issue:

1. **CEC regulation allegedly violated.**
2. **CEC has detailed written process for alleged violations.**
3. **CEC has due process for all parties.**
4. **CEC decision-making recognized by all parties.**

Additionally:

1. **Hamilton hasn't been executive director of CHEERS for almost two years.**
2. **Hamilton has new position with new employer.**

Finally:

1. **Complainant can put anything he/she wants in complaint.**
2. **Successful complaint requires first hand evidence of conflict of interest.**
3. **Successful complaint presents best arguments, not hearsay.**
4. **Email from Hamilton isn't first hand evidence of conflict of interest, or even evidence of conflict of interest.**

Please contact me with any questions.

Best Regards,

Robert A Scott, CHEERS
Executive Director

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From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Thursday, June 12, 2008 6:42 PM
To: Robert Scott
Subject: RE: MASCO Complaint

Robert: what do I do say that the below is my take on this and see what they saw? I am not sure if they have all the details you have listed down here. Can we talk? Dave

---

From: Robert Scott
Sent: Thursday, June 12, 2008 10:35 PM
To: davehegarty@ducttesters.com
Subject: RE: MASCO Complaint

Dave:

I am pretty much in transit all day but can be reached on my cell to talk. I am not sure what you mean here.

Best Regards,

Robert A Scott, CHEERS
Executive Director

-----Original Message-----
From: davehegarty@ducttesters.com [mailto:davehegarty@ducttesters.com]
Sent: Friday, June 13, 2008 6:26 AM

To: Robert Scott
Subject: Re: MASCO Complaint

That is a firsthand account, and thats what CHeers legal wanted?

Sent from my BlackBerry® wireless device

From: Dave Hegarty
Sent: Saturday, July 05, 2008 1:37 PM
To: Robert Scott
Cc: 'John Richau'
Subject: Masco, Energy Sense and Conflict of Interest rules

Dear CHEERS:

This will be the third time I am writing you and charging The BOARD of CHEERS, as to the most apparent CONFLICT OF INTEREST RULES violation by Energy Sense, A MASCO Company. Masco is doing business in the State of California and under their wholly owned subsidiary ENERGY SENSE and with CHEERS accreditation in violation of the Conflict Of Interest Rules and guidelines. I have charged the Board and Robert Scott with investigating and determining the charges that Masco is operating in without fear under CHEERS accreditation and in violation. Please see the guidelines herein cut and pasted directly from the CEC explanations:

CEC-400-2005-005-CMF
Revision 3

2. Compliance and Enforcement

Page 2-16 - Compliance and Enforcement – Roles and Responsibilities

Example 2-7

Question

I heard that there are conflict-of-interest requirements that HERS raters must abide by when doing field verification and diagnostic testing. What are these requirements?

Answer

HERS raters are expected to be objective, independent, third parties when they are fulfilling their duties as field verifiers and diagnostic testers. In this role they are serving as special inspectors for local building departments. By law HERS raters must be independent entities

from the builder or subcontractor installer of the energy efficiency features being tested and verified. They can have no financial interest in the installation of the improvements. HERS raters cannot be employees of the builder or subcontractor whose work they are verifying. Also, HERS raters cannot have any financial interest in the builder's or contractor's business or advocate or recommend the use of any product or service that they are verifying. Section 106.3.5 of the CBC prohibits a special inspector from being employed (by contract or other means) by the contractor who performed the work that is being inspected.

The Energy Commission expects HERS raters to enter into a contract with the builder (not with sub-contractors) to provide independent, third-party diagnostic testing and field verification, and the procedures adopted by the Energy Commission calls for direct reporting of results to the builder, the HERS provider, and the building official. Although the Energy Commission does not recommend it, a "three-party contract" with the builder is possible, provided that the contract delineates both the independent responsibilities of the HERS rater and the responsibilities of a sub-contractor to take corrective action in response to deficiencies that are found by the HERS rater. Such a "three-party contract" may also establish a role for a sub-contractor to serve as contract administrator for the contract, including scheduling the HERS rater, invoicing, and payment provided the contract ensures that monies paid by the builder to the HERS rater can be traced through audit. It is critical that such a "three-party contract" preserves rater independence in carrying out the responsibilities specified in Energy Commission-adopted field verification procedures. Even though such a "three-party contract" is not on its face in violation of the requirements of the Energy Commission, the closer the working relationship between the HERS rater and the sub-contractor whose work is being inspected, the greater the potential for compromising the independence of the HERS rater.

CHEERS and CalCERTS have been approved by the Energy Commission to serve as HERS providers to certify and oversee HERS raters throughout the state. These providers are required to provide ongoing monitoring of the propriety and accuracy of HERS raters in the performance of their duties and to respond to complaints about HERS rater performance. In

cases where there may be real or perceived compromising of HERS rater independence, they are responsible for providing increased scrutiny of the HERS rater, and taking action to ensure objective, accurate reporting of diagnostic testing and field verification results, in compliance with Energy Commission adopted procedures.

Building officials have authority to require HERS raters to demonstrate competence, to the satisfaction of the building official. Building officials should place extra scrutiny on situations where there may be either real or perceived compromising of the independence of the HERS rater, and exercise their authority to disallow a particular HERS rater from being used in their jurisdiction or disallow HERS rater practices that the building official believes will result in compromising of HERS rater independence.

Please note the highlighted text and the third sentence. I understand this is an issue that has come to the Board on several occasions without resolve. As a certified CHEERS HERS Rater, I have asked CHEERS and I have provided written requests for investigation. I have provided first and second hand documentation to CHEERS which I am sure has made its way to BOARD members. I have not received anything in writing back from the BOARD as to investigations being implemented or actions taken on this matter. It is clear in this paragraph above that CHEERS has an obligation to provide "increased scrutiny of HERS raters" under the CONFLICT OF INTEREST RULE. I was told that an investigation would be done based on my request in writing, and that it would occur within 30 days. The results of any investigation that was promised and is part of the CEC charge to Providers has not been receive to this date. My request was made more than 90 days ago. I ask with all due respect, when will any investigation take place and when might we expect a determination based on an investigation to arrive in our hands? And along this same vein, I have requested, in writing, a dispute or request for investigation procedure from CHEERS and have not received it to date. I have talked with Tav Cummins at the CEC and he informs me that all Providers must have a complaint system and procedure for investigation of complains in written form for Raters and the public to access. Is this true and, if so, when might I expect that policy?.

It is my belief that Masco flies in the face of the Code and rules about Conflict of Interest, as you know. But as another CHEERS put it, "the continued lack of investigation and action or determination of Masco's violation, especially in our current Energy Market, only encourages other major subcontracting interests to look closer at the Masco business model and the benefits they gain from their self testing model. Can you imagine if other major installers and manufacturers involve themselves in the HERS industry, like Masco has done, to enhance their bottom line, would there be REAL ENERGY SAVINGS. This is making a mockery of the California Energy plan". And I would have to agree with this statement. I ask CHEERS, and THE BOARD to take a good look at the implications and the violations that they have in their possession and that have been forwarded to them, and read the letter from the CEC to Masco written over a year ago and determine if there is a violation of the Conflict of Interest Rule and to make a stand of the issue as to the BOARD's determination. I ask the BOARD to make a ruling on this issue, and set the record straight as to whether it is a conflict or not. And if found to be a conflict, take the appropriate actions to resolve the issue of Masco's accreditation under CHEERS. Even thought the Raters under Masco's Energy Sense umbrella, are individuals, CHEERS certified them under the Masco, Energy Sense corporate umbrella. And as you know, Masco is soliciting work from builders/developers from all their building services companies, and all of these companies are wholly owned by Masco. That is a direct violation of the Conflict of Interest rule. By continuing to ignore this issue, we are laying the ground work for more MAJOR companies to employ the same business model (in

violation) and risk the real energy savings that California has enjoyed by implementation of our ENERGY CODES. As a State that is 23% better than the rest of the nation, and with the recognition that we have gained for that wise move, how do we now explain the lack of attention to the core of our CODE?

As you know, Bill Lilly of California Living and Energy, has submitted a written formal complaint to the CEC for request for and determination of, the Masco violation. I am privileged to support that document and request and ask CHEERS to also honor that request as a formal, written request for CHEERS formal investigation into the matter. His documentation is open to your scrutiny and I will provide (have already done so) copies of and additional information as to the matter and happenings. It is still my contention that whatever the violations or lack of quality of inspection having been done by Masco Raters, is not the real issue. But that Masco is, as a corporate owner of Energy Sense with better than the allowable financial interest, in violation of the CONFLICT OF INTEREST rule because of the ownership share and their "stake" in the builders business and that they continue to recommend their products to the builder at a discounted service under ENERGY SENSE.

CHEERS has the sole obligation to remedy the situation and the accreditation of Masco's Energy Sense in the State of California, because they are charged with that responsibility under the CEC rules. I hope you will take seriously this issue and provide Leadership in the effort to maintain a higher standard in the HERS industry, as the CHEERS BOARD has accomplished in the past. It was the CEC's forethought and wise determination that the HERS Rater should be a "TRUE Third Party" to the building industry to provide the REAL ENERGY saving that is so desperately needed then, and now in our world. It is all RATERS who look to you, the CHEERS BOARD, for the Leadership to guide and to determine the rights and wrongs that are going on in the industry. Your effort to educate and instruct to this date, is legendary, and this same credibility should be and needs to be maintained in issues such as this one. Thank you.

Sincerely,

Dave Hegarty, CHEERS RATER

From: Robert Scott
Sent: Wednesday, July 09, 2008 6:54 AM
To: Dave Hegarty
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Dear Dave:

I have informed members of the CHEERS Board of Directors of your most recent email.

I am surprised of your claim that CHEERS has not responded in writing to your complaint. Given that your formal complaint was made via email I have responded to the issue in kind. I am attaching the following email messages sent to you on these dates: 4/29, 5/2, 5/15, 6/9, 6/12 and have listed them for you below:

4/29 – SUBJECT: MASCO Complaint – Acknowledgement of receipt of your complaint
5/2 – SUBJECT: MASCO Follow-up – Forward of CHEERS Letter to CEC
5/15 – SUBJECT: RE: Masco – Status
6/9 – SUBJECT: RE: Masco Revised – Acknowledgement of revised Lilly complaint to CEC
6/12 – SUBJECT: MASCO Complaint – Recommendations for changes to revised Lilly complaint to CEC

Please let me know if you would like these in hard copy, as well as and future communications on this matter sent to you by mail.

I want to point out that there are two complaint processes referenced in Title 20. The one you have invoked with CHEERS was originally intended to address consumer-related problems as opposed to business-to-business complaints. Thus it is not specifically responsive to this situation, which has clearly identified the need for more clear procedures for the latter type complaint.

Title 20 1673 (h)(3) Complaint response system. Each provider shall have a system for receiving complaints. The provider shall respond to and resolve complaints related to ratings and field verification and diagnostic testing services and reports. Providers shall ensure that raters inform purchasers and recipients of ratings and field verifications and diagnostic testing services about the complaint system. Each provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the provider

CHEERS takes the specific allegations in your complaint seriously and the process we must follow must consider the one which the CEC has set out for themselves in Title 20, which in summary is:

1. Complaint proceedings address alleged violations of statutes, orders, decisions or regulations of the CEC; investigation proceedings address the applicability of statutes, etc. So we are talking complaint proceedings.
2. Any person may file a complaint; it's filed with the General Counsel of the CEC and under penalty of perjury.
3. Within 30 days after receipt of complaint, it's dismissed or served on respondent.
4. Within 30 days after service, an answer is required.
5. Within 90 days after receipt of complaint, a hearing commences before an assigned committee or hearing officer.
6. Within 14 days after hearing, "to the extent reasonably possible," a proposed decision is made available.
7. Matter is scheduled for consideration by full commission "at the earliest reasonable date."

I assure you that CHEERS is interested in resolving this situation so that we can get on with the real object of our work.

I am away from the office for the remainder of the week and will not be available until Monday.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

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From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Thursday, July 10, 2008 12:09 PM
To: Robert Scott
Cc: Bill Lilly; John Richau
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Robert: I will email you my meaning as soon as I get a break to do so, but I think I may have misstated my position or the interpretation of what I meant is incorrect, or better yet, I needed to state more clearly what I am asking. D But you are correct about these communications. I just have not received the "promised" investigation determination. Everyone I talk to, including CEC and you, feel this is a travesty and dangerous to our industry. Yet no one wants to make a stand. Clearly, CEC staff has told us that they privately agree, and that they feel like it is CHEERS' responsibility to address this issue since CHEERS is the certifying Provider and the Title 20 wording is clearly addressing this issue. But what I hear from the CEC is they are forwarding it to you, and what CHEERS says (official position) they have put it in the hands of the CEC. Clearly, you stated that the CEC has said that they will do nothing to remedy this problem without a formal complaint. (by the way, they officially have and have had a "formal complaint") and clearly CEC is denying any such pending action of investigation or any knowledge of a problem of "waiting for a formal complaint". So, here we are again, jeopardizing the industry standard and hurting the industry as well as allowing a private company, MASCO receive Public GOODS monies in violation of the State of California Energy Code and the CLSB's professional code as stated in the letter from CEC to Masco well over a year ago now, and without so much as a written response. Cheers has "jumped" on other "Rater problems" with immediate action and investigation. Yet, as you state, the Board is concerned about "law suits" over eligibility and certification. Yes, Cheers is probably right to be concerned, because they knowingly issued certification to the individuals in Masco's employee knowing full well they we under the Masco Umbrella and the Energy Sense Company was wholly owned by Masco. I understand that issue. However, it is setting a bad example for the rest of the Ratership that CHEERS is not addressing this matter. It provides an uneven playing field for all raters and their own interests. Is Masco so big that it can walk over the rules and the CEC as well, scaring the CHEERS provider as to legal battles? It would sound as though the issue of Bill Lilly's Masco Scare tactics is alive and working, as he stated and warned. Robert, clearly the issue is important and has risen to a level of needing immediate attention. My statement about not receiving written documentation on the matter, meant from an investigative or conclusion position. So it is my request or charge from my written email (which I asked you to accept, and grateful that you did) to investigate and determine, that I have not received any written notification or position. I am asking for the Board to take a formal written position on the Masco issue and their (Masco's) eligibility under Title 20 for all Raters to understand and read. I hope that clears the misunderstanding, you and I know we need to avoid in this situation. I apologize for any misleading statements and written communications that infer I have not heard from you on this matter. While CHEERS may not think the only problem here is that I have not "heard what I want to hear CHEERS say" it is that no formal investigation and findings have been written and made public as to the Broads' or CHEERS' position on the MASCO problem. I do not take this lightly, as a CHEERS supporter and a believer in the Energy Conservation movement over just producing more, I believe it is in the best interest of the industry and the "third party credibility" to provide true documented energy savings, without question as to its validity and authenticity, where no ulterior motivation exists, i.e. profits. Clearly, all the Masco inspections of Masco owned Companies pass the first time and have no rejections, you of all people know that. It is funny that the Masco companies fail more times as a percentage by independent Raters than at all with a Masco Energy Sense rater. That is proof in itself that they are without blame, (sarcasm). Robert, I have no idea what you mean by paragraph 5 of your email. And it goes that the matter of our last telephone conversation, avoidance of the matter, Finding ways to "not address the situation" such as we are now terming it a Business to Business complaint, if I understand even a little of what you have said here in this paragraph. It is clearly the responsibility of CHEERS CHARTER and Franchise under TILTE 20 as to this matter of Masco's eligibility and CEC responsibility to address the apparent violation. Or to at least determine if there is a violation. As an example, DuctTesters is a corporation, so under the current "non action policy" I should have the same rights to invest in other start my own insulation company, correct. Is that a violation? I has the Board to answer this question in earnest, because it is a serious question. I am a CHEERS Rater and if I am to do this, would then be under the scrutiny of CHEERS as to my "conflict of interest in by HERS rating, correct. I believe Robert, that we are on the same team and that you as well as I have the best interest of the industry and the energy conservation at heart. I believe that, but CHEERS has an obligation to the other Raters and myself, that they serve to make a determination and to address this matter if the determination is adverse to either my charge or the code. That is what I have been asking. If that is not clearly the case, then I apologize and let's clear the air and understand what it is I have written my complaint about. Everyday that goes by, enhances the ability of Masco to operation in violation and "at will" with the CEC code and the CHEERS rules and Board. It is on the Board to address and it is their responsibility alone. When the air clears, however this turns out, and if the future allows Masco and others to control their bottom lines by walking on and violating Title 20 and the CEC Energy Code on a daily basis, California

and CHEERS will not have lead the path as they have in the past. Home Developers and New homeowners will be at odds as to the accuracy of the installations that Energy Sense has done and to what integrity. The bottom line for CHEERS and RATERS is intention and integrity. Can that be insured by CHEERS if the profit of a Company is based so heavily on the same company installing as the verifier or certifier. We all see it on a daily basis, it doesn't work. And now it involves Public Goods monies. At some point Robert, it will be addressed, and when it does, I will be there. And even if it is adverse to my stance and what you say is your stance, then the World will have lost, because the energy will not have been saved and the overriding concern for profit by the non independent rater companies (Mascos) will have won. It is on us to remedy this situation, or children and their future are at stake. The future of building Green house gas emissions is the really enemy here. dave

---

From: Robert Scott
Sent: Monday, July 14, 2008 12:23 PM
To: Dave Hegarty
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Dave:

It is going to take me a bit of time to properly process what you have written. This is not meant to lecture, however for me, tracking the various points that you are trying to make in a single paragraph is challenging. I would like to ensure my understandings are correct as to any facts it contains. Thank you for your patience.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

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From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Monday, July 14, 2008 12:58 PM
To: Robert Scott
Subject: personal

Robert: it is with great regret I received your email today. I cannot imagine that you can be the least bit confused by the task at hand or the request for formal investigation. The only Confusing issue here is "WHY IS CHEERS STALLING TO MAKE A DETERMINATION' AND WHY DOES CHEERS REALLY NOT WANT TO ADDRESS SOMETHING THAT IS GOOD FOR THE INDUSTRY AND GOOD FOR ALL RATERS", even the raters that are employed by Masco. IT IS CLEARLY IN THE BEST INTEREST OF CALIFORNIA AND THE HERS INDUSTRY, AND CLEARLY NOT GOOD FOR BOTH OF

THESE IF IT CONTINUES. CALCERTS HAS STATED THAT THEY WILL NOT CERTIFY MASCO BECAUSE OF THE CONFLICT OF INTEREST. WHY IS CHEERS RELUCTANT AND IN A DODGE MODE!

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Wednesday, July 23, 2008 6:30 PM
To: Robert Scott
Subject: determinations

Robert: I still have not heard hide nor hair about the continued issue of Masco certification by CHEERS authority. I still have not gotten a "promised determination" on the issue of Masco's ability to HERS rate the very installations of energy measures called out in the T-24s. A determination as to their ability to operate in the face of the CEC Title 20 rules on Conflict of Interest. I have not been provided with CHEERS process for investigation and determination of these kinds of processes, required to be in place and accessible to the public and RATERs. More than 90 days have gone by without response to the issues or processes. When can we expect CHEERS and the Board of CHEERS to provide a complaint system for such issues and when might we have a determination on the Masco situation as they operate and brag about operating under the CHEERS umbrella with all authority provided by CHEERS?

I hope this is understandable and straight forward in its meaning. Thanks Dave Hegarty

---

From: Robert Scott
Sent: Tuesday, August 05, 2008 8:21 AM
To: Dave Hegarty
Subject: Energy Sense Investigation Update

Dave:

I wanted to update you: CHEERS is currently in communication with Energy Sense's legal counsel. There are some timing delays on both CHEERS' and their parts. Don't expect anything more until after Aug 18th, when I should provide additional updates.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Tuesday, August 05, 2008 8:52 AM
To: Robert Scott
Cc: john@certified-ec.com; Tommy Young; Amy Chen; Bert Sanchez; Bill Dakin; Don Hegarty; FDupre@ConSol.ws; Karen Williams; Rosie Smith
Subject: RE: Energy Sense Investigation Update

Robert: I know you don't see this in the same light as I do and for that matter CEC and the Tile 20 rules. I am saying and charging CHEERS with making a determination after an investigation (for which you have no current procedure in place in writing). CHEERs is sitting on this awaiting CEC to make a decision and CEC has already stated that it is CHEERS certification of MASCO and therefore if Masco is found to be in violation then CHEERS too is in violation. I don't think that CHEERS understands the magnitude of the charges I have made to them in writing. CHEERs is the Certifier, CHEERS alone stands as the organization that has misinterpreted Title 20 and the conflict of interest rules. The CEC is your Certifier. They approve CHEERS for the Providership. Therefore, I once again I charge CHEERS and the Board with making a decision as to the validity of the Masco Certification, from investigation by CHEERS with established procedures published for the public to access and to use, as provided for in the Title 20 rules. CHEERS is allowing the CEC to make a decision that is the responsibility (as Bill Pennington said at our March 2008 meeting) investigate and determine the extent of any violation of the rules under Title 20 as administered through CEC and Certified by CHEERS. It is my understanding that this is the ruling that will be handed down from CEC to CHEERS and that then the Clock will start for CHEERS. But in reality, I have made the request to CHEERS to investigate the matter of Masco's violation of the Title 20 conflict of interest rules in March of 2008 to CHEERS and you personally as well as in writing. The Board must determine for themselves either Masco is or is Not in violation of the conflict of interest rules and cannot skirt this issue any longer. This is exactly why the interests of the raters are a major concern for many raters as the providers speak for the Raters at the CEC level. I am again requesting a formal investigation by CHEERS into the Masco conflict of interest rules violations. That a determination is made by CHEERS independently of any CEC rulings, and in compliance with their obligation under their Providership and certification by the CEC. I urge you to take seriously the obligation and the concern for which this charge has been leveled. Thank you so much for your attention to this matter.

Dave Hegarty

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Monday, August 11, 2008 6:56 PM
To: Robert Scott
Subject: Membership and Board membership

Robert: Please consider this as a request from me to CHEERS as to the Board Membership and a full Rater membership roster. I would like to lobby the Board and request copies of the Board meetings under the Public information Act. I would like the Roster for contacting the membership as to the board proceedings. Thank you so much. dave

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Thursday, August 14, 2008 6:14 PM
To: Robert Scott
Subject:

Robert: Here is a highlighted copy of the Title 20 rules on Conflict of Interest and of the Providers responsibilities under their CEC certification. It clearly defines CHEERS role and Responsibility for Certifying to CEC that the rater, under the Rater Agreement must meet the Conflict of Interest Rules and for CHEERS to acknowledge and certify that it is true, they are not in violation of the conflict. I charge the BOARD and you with answering to this charge. While I have asked you to provide me with the method and system for filing charges (which I have filed with you in the past and no paperwork was required, for which you acted) and you have refused, (not providing me with the written process as required by the Title 20 Providers responsibility is the same as refusing) I have no other coarse but to try and seek a reasonable and legally acceptable course of action, such as this email, as a vehicle for the process that CHEERS and your Board refuses to respond. Therefore I am asking you to accept this reasonable request and procedure for investigation of Masco as Conflict of Interest violations under the Title 20 as here produced. This request for investigation is in response to your response to me on Monday August 11, 2008 at 2:00 p.m. in the afternoon. And your response was that you were only investigation the actions of and the knowledge of Raters under the Masco Umbrella, because it is your position (and possibly the Boards) that CHEERS Certifies the Rater not the Agency. But as you know, the Truth is that Masco Paid for the Class that the Masco/Energy Sense Raters attended and were taught by CHEERS authority. In other words, Your assumption that CHEERS certified the individual raters is incorrect, given that Masco paid each and every rater in attendance, fees for certification as well as wages. And therefore CHEERS is soley responsible for Masco certification and the individuals belonging to Masco. They are Masco Employees and Masco owns Energy Sense entirely as well as insulation companies and window companies that install energy conservation measures controlled by the CEC and the California Energy Code, describe clearly in Title 20 section 1673, as a conflict of interest. Surely other agencies have paid for individuals to attend and be certified as a HERS rater, but those agencies were not in conflict with or in violation of the Conflict of interest rules as provided in section 1670 through 1675. And furthermore, The raters and agencies that have done so, have not openly and without fear of prosecution solicited other Masco business as a result of their HERS certification. By the way, The reverse of that is also true, as I have described in detail to you in many emails, that Masco has given discounts on other products and services they produce and install to solicit Masco HERS services and Masco products and services in other areas. If you don't remember, it was with Renovo Homes in the Sacramento area with PG&E personnel present. It is with this charge that I urge you to take seriously, that I am forced to find a "reasonable vehicle" for the procedures to "CHARGE" CHEERS with this task and violations and ask for investigation of the Masco violation of Title 20.

As a separate issue, CHEERS is obligated to produce in writing the systems and processes for "Complaint Response System" as required in section 1673 H(3) under Title 20. As a Rater and as a Certified CHEERS Rater, CHEERS as a 503C Corporation, and as Director, you are obligate to answer this letter or review and deny the charges herein. As a 503 C CHEERS is required to be a "public benefit" agency. I Respectfully request an answer to these charges that addresses the real issues stated herein. If you are not answering because of a legal obligation or are under legal advice not to do so, please state so formally in writing. As a rater, I would find it offensive if CHEERS is not responding to their obligations under Title 20, to its Raters, the raters that they have often said they are serving. Robert this has become a serious situation.

Dave Hegarty

From: Robert Scott
Sent: Friday, August 15, 2008 12:16 PM
To: Dave Hegarty
Subject: RE:

Dave:

I have forwarded this to CHEERS legal counsel for review and will have a formal reply for you next week.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

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From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Friday, August 15, 2008 12:19 PM
To: Robert Scott
Subject: RE:

Thank you Robert, dave

From: Robert Scott
Sent: Friday, August 22, 2008 12:00 PM
To: Dave Hegarty
Subject: CHEERS response to your inquiries

Dave:

I would like to respond to the various inquiries you have made and issues that you have expressed concerns about. While you may or may not agree with the responses and actions that CHEERS makes, I want to assure you that the CHEERS Board of Directors is committed to supporting a strong, reliable and credible HERS industry. In this context I offer these responses to the issues identified in communications from you.

First, in researching your inquiry regarding the "Complaint Response System" in Title 20, CHEERS was approved according to the following in its application to the CEC:

(1)Complaint response system. Each provider shall have a system for receiving complaints. The provider shall respond to and resolve complaints related to ratings and field verification and diagnostic testing services and reports. Providers shall ensure that raters inform purchasers and recipients of ratings and field verifications and diagnostic testing services about the complaint system. Each provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the provider.

CHEERS intends to meet these requirements, in part when issuing Certificates of Field Verification and Diagnostic Testing with an attachment containing the statement:

"If you have a concern or complaint regarding this report or the services used in obtaining it, you may contact:

CHEERS, Inc.
Customer Service
9400 Oakdale Avenue
Chatsworth, California 91311
(818) 701-3277 "AND
As described in Attachment 5.

Attachment 5 is the CHEERS Quality Assurance Program, which has been updated several times and is referenced by the CHEERS Rater Agreement, which all raters sign. The QA Procedures are easily available on the CHEERS Registry web site in the support section, along with all the other current CHEERS policies. Clearly, the initial approval envisioned the complaint process as affecting consumer-related inquiries regarding rating and field verification services. While items like the CHEERS corporate name and address have been changed and updated, others such as the statement above may not have been, which I conclude was an unintentional oversight.

I would point out that most of the operational details related to Rater performance, including field verification measures, procedures and documentation are governed by Title 24. Title 20 has not been updated since initial adoption in 1999 and all changes affecting raters were made only in the three updates to the Title 24 Building Energy Efficiency Standards in 1998, 2001 and 2005. While I did not participate in the 2005 Title 24 update proceedings and had minimal involvement in 2001, it was my job as CHEERS Technical Director, in close collaboration with CEC and other stakeholders, to ensure that there was a HERS Provider ready for approval when the CEC adopted the 1998 BEES in August 1999. I hope you can appreciate that this effort was the formal introduction of the rater's role into the homebuilding industry in California.

I would encourage you to view the current HERS Phase II proceeding for updating Title 20 as an opportunity to clarify the rules and make your views on the process known. The adoption of these revisions will require the HERS Providers to show how they intend to meet the requirements of the new regulations and I am confident that CHEERS will meet and exceed the minimum requirements of the regulation.

Second, I cannot accommodate your request for the "membership roster" of CHEERS raters because of privacy concerns and the lack of approval from the individual raters. We have considered offering an "opt-in" choice that would allow raters the option for sharing their contact information with third parties, however, defining who we would release this information to is problematic. In the age of spam you can see the drawbacks to providing information this without proper approval by our raters.

Third, I am the point of contact for the CHEERS Board of Directors and am responsible for informing them of the issues and inquiries made of CHEERS. As the spokesperson, I convey CHEERS policy and positions. As I am unable to

identify the "Public Information Act" you refer to, I cannot respond to it for the information that you request. CHEERS complies with all Federal and State laws pertaining to its status as a nonprofit organization.

Lastly, pertaining the status of your complaint to CHEERS regarding Energy Sense (Masco) – The matter is now being decided by the California Energy Commission and CHEERS has received the following advice from Legal Counsel:

1. CHEERS does not comment on ongoing legal proceedings.
2. The State of California investigation takes legal precedence, and the State of California decision controls.
3. CHEERS expects full and fair legal proceedings and looks forward to the final decision which will provide legal precedent and legal guidance.
4. When a final decision is made, CHEERS will act in accordance with the decision.
5. When a final decision is made, it will have been made by the State of California. All parties should respect and defer to the proceeding while it is ongoing, and act in accordance with the decision.

I hope that you will accept this as CHEERS response to the variety of concerns you have expressed over the past months and that the processes in motion will address some of your current concerns and will set precedent for the future.

CHEERS shares your goal of a healthy and credible HERS industry. We are faced with this developing industry inside a changing marketplace. The challenges ahead include the changes required by the 2008 Title 24 standards and the enormous potential represented by the adoption of more comprehensive rules if HERS Phase II for rating in existing homes. I believe it is important for me to focus on leveraging CHEERS' resources on these important tasks.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

From: Robert Scott
Sent: Friday, September 05, 2008 3:58 PM
To: Dave Hegarty
Subject: Phone message to CHEERS legal counsel

Dave:

CHEERS Legal Counsel has been out of town all week, so she asked me to email you in response to your voicemail message to her.

Since legal proceedings are ongoing at the CEC, she, like everyone associated with CHEERS, is unable to speak with you.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

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From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Tuesday, September 09, 2008 8:35 AM
To: Robert Scott
Cc: H Thomas Beck
Subject: RE: Phone message to CHEERS legal counsel

Robert: it is clearly a violation for CHEERS to ignore the request for a policy and procedure regarding complaints. It is clearly required under the CEC Title 20 rules. I have in good faith requested that of your attorney and of CHEERS. And your promises to complete tasks that you yourself chose, have not been completed. This is exactly why a Rater organization is necessary in light of the human nature of Protecting themselves and cover up. I urge you to comply with the request for Written complaint process that you say you have, that you say you wrote some years ago, and you say you cannot find. You also told me that it is still in your head, but you have not written it down for us to look at and for me to file a complaint.

So please pass this along to your attorney , requesting that the board of CHEERS respond to the request for complaint process (which has nothing to do with MASCO issues, but is a clear requirement of Title 20). And quite frankly, Robert this is quite a distressing attitude that CHEERS is promoting. It is now very difficult for CHEERS to truly say and mean that they REPRESENT THE RATER AND THE RATER INTEREST.

If this needs to be in a more formal vehicle such as a formal letter to be accepted by your Board or Attorney, please notify me in writing. Unfortunately Robert this is not the kind of situation we had hoped for, and CHEERS is leaving no road for compromise and cooperation. I urge the Board to reconsider their position. Dave Hegarty

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Robert Scott

From: Dave Hegarty [DaveHegarty@ducttesters.com]
Sent: Friday, September 12, 2008 11:57 AM
To: Robert Scott
Subject: RE: CHEERS Response to RE: Phone message to CHEERS legal counsel

Robert: Apparently you don't recall the conversations and the emails (of which there are many documented) and conversations heard by others, in which you have claimed you could not find the information to comply with my request on section 1670 through 1675 and Providers requirements. Apparently your memory of our many contacts with you in which I requested these "required documents" in which you denied my access to them. And the last one in which you refused to give them to me. The fact that this is documented cannot be escaped. Unfortunately Robert, The BOARD and your Attorney as well you have decided on the benefit to the Board and staff as more important to CHEERS than that of the RATER Good. That would not lend itself to a "for public benefit corporation". It does not matter what I want the documents for, CHEERS is obligated by the CEC Title 20 to provide it to any requesting entity. What I do with it and what I use it for is for you to decide once I have made a request for investigation, or if. I am confounded by your interpretation and your continued effort to link it in some way to the Masco investigation at the CEC, When in fact it is two separate issues, regardless of your mindset. What is it you and the Board fear here by providing the required documents that are called for in the CEC Title 20 regulations. This posture is about as DEFENSIVE as you can get. Is it the BOARDS' posture that, per your email, that CHEERS, The Board, and your Attorney are restricting me from contacting CHEERS (whom I am CERTIFIED by and report to and register by business with) to in any format. And that, my friend is your wording on the email. So to that, I address this, that is totally illegal and without merit. It is most obscured, and it will reflect in a legal issue with CHEERS that neither your Lawyer or the Board will escape. I would say that it would be much more harmful to your issues than that of the Masco issue and much more far reaching.

So in a effort to calm your nature in this matter, I will give you a chance to clarify your statement and retract the email that this relates to. I suggest you get the Board's advice on this most urgent matter.

This is a most regrettable situation should you decide not to reword.

It is unfortunate , Robert that you are moving in a negative direction.

dave

DuctTesters "Verifying Energy Efficiencies Accurately"

Dave Hegarty
Principle

DuctTesters, Inc
615 13th Street
Modesto, California 95354

Ph (209) 579-5000
Cell (209) 595-8000
Fax (209) 522-5001

davehegarty@ducttesters.com

From: Robert Scott [mailto:rscott@cheers.org]
Sent: Thursday, September 11, 2008 15:57
To: Dave Hegarty
Cc: H Thomas Beck
Subject: CHEERS Response to RE: Phone message to CHEERS legal counsel

Dave:

I am surprised at your claim that CHEERS did not respond to your request for the written complaint process. My email to you of 8/22/2008 with the subject: "CHEERS response to your inquiries" (attached), contains the specific provision relating to the complaint response system that was included with CHEERS' CEC approval as a HERS Provider. I will not reiterate the same information here and suggest that you read my complete response in the attached email. As the CEC is currently in a rulemaking to update Title 20, CHEERS is preparing to update a number of provisions from its initial approval under the regulations, including a more detailed complaint response system that will be presented to the Raters following CHEERS anticipated approval when the revised rules become effective.

And while you insist that this current request "...has nothing to do with Masco issues", your repeated demands of me and the CHEERS Board through email and telephone calls consistently link back to that singular topic. In order to refresh your memory of the dialogue we have had on the subject for the past months, below I have included the emails that we have exchanged over the past months. While you may not agree with the responses, I have made reasonable efforts to address your concerns and inquiries where I can . With this matter now being decided by the California Energy Commission, CHEERS looks forward to the guidance that any action might provide .

I reiterate CHEERS' position regarding communication, and please understand CHEERS will be acting in accordance with the following advice received from CHEERS Legal Counsel:

1. CHEERS does not comment on ongoing legal proceedings.
2. The State of California investigation takes legal precedence, and the State of California decision controls.
3. CHEERS expects full and fair legal proceedings and looks forward to the final decision which will provide legal precedent and legal guidance.
4. When a final decision is made, CHEERS will act in accordance with the decision.
5. When a final decision is made, it will have been made by the State of California. All parties should respect and defer to the proceeding while it is ongoing, and act in accordance with the decision.

Until this matter has been fully adjudicated, please refrain from contacting myself or anyone associated with CHEERS.

Sincerely,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

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From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Friday, March 21, 2008 8:40 AM
To: 'Robert Scott'
Subject: Masco

Robert Scott: this email will express my opinion of this issue. As we discussed at the meeting at CEC headquarters in Sacramento, with Bill Pennington, Bill Staack, Tav and the new compliance associate 9sorry I have forgotten his name), It is also the concern of CHEERS as to validity of the Certification of Masco's Energy Sense Company for certification to CHEERS the Provider. It was discussed at this meeting that CHEERS has some responsibility to the CEC and the State Regs, not to certify individuals or Companies that are in violation of, or has a REAL or PERCEIVED conflict on interest in violation of the code of Title 20. Although the issue was not settled at this meeting as to whether or not there is a unique responsibility to CHEERS and that CHEERS has responsibility to judge for themselves whether or not there is a conflict, it is my belief that the meeting members and Title 20 clears allows CHEERS to distinguish or judge the matter. So if we know that Masco owns and operates the Energy Sense company, that the employees are MASCO/Energy Sense employees paid through Masco, and along with all the questions in Mr. Staack's letter, at least C HEERS has some obligation to make known its sense of things and or determine (however prematurely) a position on the details of this issue. Such as in the Sawyer/WallenAir Care case, if it is wrong action must follow. If you need this to be a formal complaint, I would hope this complies. Thanks Dave

DuctTesters
by Dave Hegarty

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Tuesday, April 08, 2008 9:52 PM
To: Robert Scott
Subject: Title 20 1673

Robert: just to confirm that you received the change to the email and that it is a in fact now a complaint under the Title 20 1673 ((3) Complaint response system. Each provider shall have a system for receiving

complaints. The provider shall respond to and resolve complaints related to ratings and field

verification and diagnostic testing services and reports. Providers shall ensure that raters

inform purchasers and recipients of ratings and field verifications and diagnostic testing

services about the complaint system. Each provider shall retain all records of complaints

received and responses to complaints for five years after the date the complaint is presented to

the provider.

I am looking for a formal response to the complaint or a correspondence on how to proceed to this end. While the above quote does not directly state the issues surrounding my complaint regarding MASCO, it would appear it comes under this heading and responsibility. What do you think? Thanks Dave

DuctTesters
by Dave Hegarty

From: Robert Scott [mailto:rscott@cheers.org]
Sent: Wednesday, April 09, 2008 9:35 AM
To: davehegarty@ducttesters.com
Cc: Douglas Beaman; Dawn Carton
Subject: RE: Title 20 1673

Dave:

In the email that you sent and that I am now replying to, you have asked me to "confirm that you received the change to the email and that it is a in fact now a complaint". I am not sure what email you are referring to, as I was included as a recipient in earlier one you sent with the subject "Financial Conflict of Interest".

In order to be as clear as possible, I need you to send me a single document that details the specific allegations of your complaint. Once I receive this, I will review the information with CHEERS Legal Counsel and determine further action. As you know, the CEC has been looking into this issue for about two years, before I came on board, and CHEERS has been cooperating with all of their requests.

I request that any information you can submit be provided in writing, so that the record is clear and we can address all relevant issues.

Thank you for your help and interest in ensuring a strong HERS industry.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Wednesday, April 09, 2008 11:22 AM

To: Robert Scott
Subject: RE: Title 20 1673

Robert: thank you for your response to my latest email. And you are correct in that you were actually a recipient in the original email, but then I readdressed that same email to you directly as it relates to CHEERS and those issues. In the email it clearly spelled out my concerns and the concerns that I heard at the meeting Bill Lilly and I had at the CEC with Bill Pennington and Group. I have forwarded to you via snail mail (USPS) the same information that was given to CEC at the meeting March 12, 2008 I believe. The email I am referring to is dated March 21st, I believe. It is the one I first addressed in error to Bill Lilly and then readdressed it to you at CHEERS. I certainly do so much appreciate that CHEERS takes this and complaint issues in general seriously. My goal here is to be in compliance with the CEC rules on the Masco Matter, due to all the shifting and posturing of responsibility that has taken place. We have a serious matter at hand and it is my belief, a serious violation of CEC 1634 regulations as well as the state rules on Conflict of Interest rules for contractors as quoted in the CEC regulations under 1670 thru 1674 and so eloquently set forth in their examples throughout the CEC standards, manuals and training materials. Again, if you have not received the packet of information compiled by Bill Lilly and presented to CEC on that above mentioned date, please let me know so that I can get that to you or contact Bill Lilly's office for your copy. I will do everything in my realm to assist you with the documentation and or information you need to comply with the standards. It is significant to note that CHEERS has understood that the CEC has been working on this matter for two years, that is exactly our understanding of the matter, however CEC in our meeting would not commit to that length of time even though Bill Lilly had documents to show that very fact. Regardless, that is the nature of what we are working with, so as to not continue to make mistakes that can be misconstrued by anyone, I am crossing the T's and dotting the I's on all fronts including CHEERS. I cannot express my concern enough for that very fact that we had (you and I) this very conversation just two weeks ago and we are still issuing "informal complaint" understandings. I am requesting a formal complaint issued as to this matter (Masco working under Energy Sense, as a whole owned subsidiary of MASCO) and in what clearly, form many raters perspective is a violation of the CEC regulations regarding "CONFLICT OF INTEREST" rules in Title 20, in the RACM manual and in their examples of Conflict of Interest statements as well as training material. Even to the point of citing the other State rules governing this issue as stated in 1670 through 1674. So as you can see, each time we feel we have this nailed down as a formal complaint, either with CEC or with the Provider, under the CEC rules, we are again mistaken. I read in the Title 20 that Providers must have a "formal complaint process" and so, not knowing of CHEERS formal complaint process, I have put it in writing for CHEERS to deal with on a Formal basis. I hope that clarifies for you and CHEERS my concerns and addresses any issues that arise from this "formal process". Thanks Dave

---

From: Robert Scott
Sent: Tuesday, April 29, 2008 8:58 AM
To: davehegarty@ducttesters.com
Subject: MASCO Complaint

Hello Dave:

I have received your formal complaint regarding Energy Sense and have initiated a proceeding to address the issues you have identified. CHEERS will provide a complete response to you, including a statement of actions that may be pursued as a result of our investigation. You should allow up to 30 days for us to respond.

Thank you for your help and interest in ensuring a strong HERS industry.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Tuesday, April 29, 2008 10:03 AM
To: Robert Scott
Subject: RE: MASCO Complaint

Robert: We thank you and CHEERS for your attention to this matter. We believe that CHEERS has the best of intentions for Raters and that a strong HERS industry ensures our children and their children of resources and energy that otherwise would be eaten up by people and companies within the industry looking for "workarounds" to enhance bottom lines and not the full intent of the community at large under the CEC rules. We will look forward to your response and efforts concerning this matter. Dave Hegarty, DuctTesters, Inc.

From: Robert Scott
Sent: Friday, May 02, 2008 7:09 AM
To: davehegarty@ducttesters.com
Subject: MASCO follow-up

Hello Dave:

I wanted to forward the text from a letter that the CHEERS Legal Counsel sent to the CEC. I will continue to keep you apprised as things progress.

Best Regards,

Robert A Scott, CHEERS

Executive Director

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Wednesday, May 14, 2008 2:24 PM
To: Robert Scott
Subject: Masco

What's up with the Masco situation, have you heard anything or should I keep my mouth shut for a while longer?
Dave

DuctTesters "Verifying Energy Efficiencies Accurately"

Dave Hegarty
Principle

DuctTesters
615 13th Street
Modesto, California 95354

davehegarty@ducttesters.com
AIM: davedbhgrty

tel: 209 579-5000
mobile: 209 595-8000

From: Robert Scott
Sent: Thursday, May 15, 2008 8:02 AM
To: davehegarty@ducttesters.com
Subject: RE: Masco

Hello Dave:

I was out yesterday, thus my late reply.

I would appreciate your confidence a bit longer. It is a bit more complicated because the CEC says they have not received any official or formal complaint and have no guidance for us on the issue. This is an important issue that I want to resolve and it high on my list. The CHEERS attorney is not available until next week therefore I am unable to get counsel on the matter until then.

Best Regards,

Robert A Scott, CHEERS
Executive Director

From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Friday, May 16, 2008 1:36 PM
To: Robert Scott
Subject: RE: Masco

Robert: your email or formal writing to them about this issue is in itself a FORMAL complaint isn't it? And shouldn't it be? And by the way, I request (politely) that CHEERS does put it to them as such. It is Public Goods money being paid out to the Masco Group and (in my opinion) in violation of the Standards and Title 20. I would request, if you have not done so and as part of CHEERS Rater organization, request that the CEC view your request as a formal request for investigation into the matter and a clarification of the situation as it now stands, IS IT A VIOLATION OF THE STANDARDS AND TITLE 20 OR NOT. That is exactly what you asked of them in your letter so, in fact it should be brought to their (CEC) attention that they have the obligation to investigate this issue as well as CHEERS now because you have formally involved them.

Robert: on a personal note this is exactly why the CEC rules and regulations are ambiguous and unclear and exactly why there is so much ignorance and ignoring of their rules. I still see it as a CHEERS issue as to making the decision (whether it be formally or investigation) as to the validity of the situation that exists within the MASCO/Energy Sense situation. It is as much a responsibility of CHEERS and CEC, each individually, to come to their own conclusions as to the violation or legality of this entity. CHEERS is empowered by CEC to make that call and to investigate, such as in the Sawyers issue, whether or not the certification is correct or not, of Masco's Energy Sense. Please consider this email as a formal record of our request for investigation to this issue of violation in the Masco/Energy Sense issue and their Certification under the Title 20/ CHEERS program. Thanks so much, Dave

---

From: Robert Scott
Sent: Thursday, June 12, 2008 9:34 AM
To: davehegarty@ducttesters.com; Scott Johnson
Subject: MASCO Complaint

Dave & Scott:

Sorry for the delay in getting back to you, but I wanted to get legal counsel before I responded. CHEERS' goal is to see resolution to this once and for all. From what we saw in both the complaint and attached documents, the reference in the complaint, Part III, Item E., that Lilly provides does little to address resolving the problem. I have been advised by CHEERS Legal Counsel that this part of the complaint's argument is weak. Additionally, because this reference is listed among the 'instances' of MASCO and Energy Sense's violation of the code, it puts a former employees who can no longer speak to the issue in an awkward position, plus it diverts attention from the real issue. If you can get Lilly to remove Part III, Section E., then CHEERS will be in a much better position to work proactively with the CEC in setting precedent on the issue of conflict of interest in the regulations.

Here is the CHEERS position:

On April 12, 2006, Bill Lilly sent an email to Tav Commins re: 3rd party violation; it included the following:

> **"Below is Tom's response…**
>
> **Coast Building products does have raters that are certified by CHEERS. Concerning the projects you mention nothing is happening with them at this point. Pulte has been releasing the bid specs for the projects and Pulte is reviewing the submitted bids for their projects. Coast Building products is fully aware of the regulatory requirements and supports the intent of the CEC regulations. Due to their internal quality assurance Coast Building products is pursuing all appropriate approaches including, but not limited to the "three-party agreement" to ensure their client (Pulte) realizes they are receiving a valuable service, not just a service that is an expense."**

On July 10, 2006, Hamilton ceased to be executive director of CHEERS.

On August 22, 2006, CHEERS received from CEC the following message:

From: Tav Commins [mailto:Tcommins@energy.state.ca.us]

Sent: Tuesday, August 22, 2006 2:34 PM
To: doug@dougbeaman.com; Bill Pennington
Cc: Melinda Merritt
Subject: RE: Contact information for MASCO

Wanted to let you know that I talked to Dave Bell at Masco about a possible conflict with MASCO starting up a new HERS testing service that will check their own work. I sent him the attached which are all the requirements regarding conflict of interest. I asked Dave to send us a letter how this new company does not defy our conflict of interest requirements.

Tav

CHEERS COMMENT:

As of August 22, 2006, CEC took ball in its court--the best place for the issue:

1. CEC regulation allegedly violated.
2. CEC has detailed written process for alleged violations.
3. CEC has due process for all parties.
4. CEC decision-making recognized by all parties.

Additionally:

1. Hamilton hasn't been executive director of CHEERS for almost two years.
2. Hamilton has new position with new employer.

Finally:

1. Complainant can put anything he/she wants in complaint.
2. Successful complaint requires first hand evidence of conflict of interest.
3. Successful complaint presents best arguments, not hearsay.
4. Email from Hamilton isn't first hand evidence of conflict of interest, or even evidence of conflict of interest.

Please contact me with any questions.

Best Regards,

Robert A Scott, CHEERS
Executive Director

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From: DAVE HEGARTY [mailto:davehegarty@ducttesters.com]
Sent: Thursday, June 12, 2008 6:42 PM
To: Robert Scott
Subject: RE: MASCO Complaint

Robert: what do I do say that the below is my take on this and see what they saw? I am not sure if they have all the details you have listed down here. Can we talk? Dave

---

From: Robert Scott
Sent: Thursday, June 12, 2008 10:35 PM
To: davehegarty@ducttesters.com
Subject: RE: MASCO Complaint

Dave:

I am pretty much in transit all day but can be reached on my cell to talk. I am not sure what you mean here.

Best Regards,

Robert A Scott, CHEERS
Executive Director

-----Original Message-----
From: davehegarty@ducttesters.com [mailto:davehegarty@ducttesters.com]
Sent: Friday, June 13, 2008 6:26 AM
To: Robert Scott
Subject: Re: MASCO Complaint

That is a firsthand account, and thats what CHeers legal wanted?

Sent from my BlackBerry® wireless device

From: Dave Hegarty
Sent: Saturday, July 05, 2008 1:37 PM
To: Robert Scott
Cc: 'John Richau'
Subject: Masco, Energy Sense and Conflict of Interest rules

Dear CHEERS:

This will be the third time I am writing you and charging The BOARD of CHEERS, as to the most apparent CONFLICT OF INTEREST RULES violation by Energy Sense, A MASCO Company. Masco is doing business in the State of California and under their wholly owned subsidiary ENERGY SENSE and with CHEERS accreditation in violation of the Conflict Of Interest Rules and guidelines. I have charged the Board and Robert Scott with investigating and determining the charges that Masco is operating in without fear under CHEERS accreditation and in violation. Please see the guidelines herein cut and pasted directly from the CEC explanations:

CEC-400-2005-005-CMF
Revision 3

2. Compliance and Enforcement

Page 2-16 - Compliance and Enforcement – Roles and Responsibilities

Example 2-7

Question

I heard that there are conflict-of-interest requirements that HERS raters must abide by when doing field verification and diagnostic testing. What are these requirements?

Answer

HERS raters are expected to be objective, independent, third parties when they are fulfilling their duties as field verifiers and diagnostic testers. In this role they are serving as special inspectors for local building departments. By law HERS raters must be independent entities from the builder or subcontractor installer of the energy efficiency features being tested and

verified. They can have no financial interest in the installation of the improvements. HERS raters cannot be employees of the builder or subcontractor whose work they are verifying. Also, HERS raters cannot have any financial interest in the builder's or contractor's business or advocate or recommend the use of any product or service that they are verifying. Section 106.3.5 of the CBC prohibits a special inspector from being employed (by contract or other means) by the contractor who performed the work that is being inspected.

The Energy Commission expects HERS raters to enter into a contract with the builder (not with sub-contractors) to provide independent, third-party diagnostic testing and field verification, and the procedures adopted by the Energy Commission calls for direct reporting of results to the builder, the HERS provider, and the building official. Although the Energy Commission does not recommend it, a "three-party contract" with the builder is possible, provided that the contract delineates both the independent responsibilities of the HERS rater and the responsibilities of a sub-contractor to take corrective action in response to deficiencies that are found by the HERS rater. Such a "three-party contract" may also establish a role for a sub-contractor to serve as contract administrator for the contract, including scheduling the HERS rater, invoicing, and payment provided the contract ensures that monies paid by the builder to the HERS rater can be traced through audit. It is critical that such a "three-party contract" preserves rater independence in carrying out the responsibilities specified in Energy Commission-adopted field verification procedures. Even though such a "three-party contract" is not on its face in violation of the requirements of the Energy Commission, the closer the working relationship between the HERS rater and the sub-contractor whose work is being inspected, the greater the potential for compromising the independence of the HERS rater.

CHEERS and CalCERTS have been approved by the Energy Commission to serve as HERS providers to certify and oversee HERS raters throughout the state. These providers are required to provide ongoing monitoring of the propriety and accuracy of HERS raters in the performance of their duties and to respond to complaints about HERS rater performance. In cases where there may be real or perceived compromising of HERS rater independence, they

are responsible for providing increased scrutiny of the HERS rater, and taking action to ensure objective, accurate reporting of diagnostic testing and field verification results, in compliance with Energy Commission adopted procedures.

Building officials have authority to require HERS raters to demonstrate competence, to the satisfaction of the building official. Building officials should place extra scrutiny on situations where there may be either real or perceived compromising of the independence of the HERS rater, and exercise their authority to disallow a particular HERS rater from being used in their jurisdiction or disallow HERS rater practices that the building official believes will result in compromising of HERS rater independence.

Please note the highlighted text and the third sentence. I understand this is an issue that has come to the Board on several occasions without resolve. As a certified CHEERS HERS Rater, I have asked CHEERS and I have provided written requests for investigation. I have provided first and second hand documentation to CHEERS which I am sure has made its way to BOARD members. I have not received anything in writing back from the BOARD as to investigations being implemented or actions taken on this matter. It is clear in this paragraph above that CHEERS has an obligation to provide "increased scrutiny of HERS raters" under the CONFLICT OF INTEREST RULE. I was told that an investigation would be done based on my request in writing, and that it would occur within 30 days. The results of any investigation that was promised and is part of the CEC charge to Providers has not been receive to this date. My request was made more than 90 days ago. I ask with all due respect, when will any investigation take place and when might we expect a determination based on an investigation to arrive in our hands? And along this same vein, I have requested, in writing, a dispute or request for investigation procedure from CHEERS and have not received it to date. I have talked with Tav Cummins at the CEC and he informs me that all Providers must have a complaint system and procedure for investigation of complains in written form for Raters and the public to access. Is this true and, if so, when might I expect that policy?.

It is my belief that Masco flies in the face of the Code and rules about Conflict of Interest, as you know. But as another CHEERS put it, "the continued lack of investigation and action or determination of Masco's violation, especially in our current Energy Market, only encourages other major subcontracting interests to look closer at the Masco business model and the benefits they gain from their self testing model. Can you imagine if other major installers and manufacturers involve themselves in the HERS industry, like Masco has done, to enhance their bottom line, would there be REAL ENERGY SAVINGS. This is making a mockery of the California Energy plan". And I would have to agree with this statement. I ask CHEERS, and THE BOARD to take a good look at the implications and the violations that they have in their possession and that have been forwarded to them, and read the letter from the CEC to Masco written over a year ago and determine if there is a violation of the Conflict of Interest Rule and to make a stand of the issue as to the BOARD's determination. I ask the BOARD to make a ruling on this issue, and set the record straight as to whether it is a conflict or not. And if found to be a conflict, take the appropriate actions to resolve the issue of Masco's accreditation under CHEERS. Even thought the Raters under Masco's Energy Sense umbrella, are individuals, CHEERS certified them under the Masco, Energy Sense corporate umbrella. And as you know, Masco is soliciting work from builders/developers from all their building services companies, and all of these companies are wholly owned by Masco. That is a direct violation of the Conflict of Interest rule. By continuing to ignore this issue, we are laying the ground work for more MAJOR companies to employ the same business model (in violation) and risk the real energy savings that California has enjoyed by implementation of our ENERGY CODES. As

a State that is 23% better than the rest of the nation, and with the recognition that we have gained for that wise move, how do we now explain the lack of attention to the core of our CODE?

As you know, Bill Lilly of California Living and Energy, has submitted a written formal complaint to the CEC for request for and determination of, the Masco violation. I am privileged to support that document and request and ask CHEERS to also honor that request as a formal, written request for CHEERS formal investigation into the matter. His documentation is open to your scrutiny and I will provide (have already done so) copies of and additional information as to the matter and happenings. It is still my contention that whatever the violations or lack of quality of inspection having been done by Masco Raters, is not the real issue. But that Masco is, as a corporate owner of Energy Sense with better than the allowable financial interest, in violation of the CONFLICT OF INTEREST rule because of the ownership share and their "stake" in the builders business and that they continue to recommend their products to the builder at a discounted service under ENERGY SENSE.

CHEERS has the sole obligation to remedy the situation and the accreditation of Masco's Energy Sense in the State of California, because they are charged with that responsibility under the CEC rules. I hope you will take seriously this issue and provide Leadership in the effort to maintain a higher standard in the HERS industry, as the CHEERS BOARD has accomplished in the past. It was the CEC's forethought and wise determination that the HERS Rater should be a "TRUE Third Party" to the building industry to provide the REAL ENERGY saving that is so desperately needed then, and now in our world. It is all RATERS who look to you, the CHEERS BOARD, for the Leadership to guide and to determine the rights and wrongs that are going on in the industry. Your effort to educate and instruct to this date, is legendary, and this same credibility should be and needs to be maintained in issues such as this one. Thank you.

Sincerely,

Dave Hegarty, CHEERS RATER

From: Robert Scott
Sent: Wednesday, July 09, 2008 6:54 AM
To: Dave Hegarty
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Dear Dave:

I have informed members of the CHEERS Board of Directors of your most recent email.

I am surprised of your claim that CHEERS has not responded in writing to your complaint. Given that your formal complaint was made via email I have responded to the issue in kind. I am attaching the following email messages sent to you on these dates: 4/29, 5/2, 5/15, 6/9, 6/12 and have listed them for you below:

4/29 – SUBJECT: MASCO Complaint – Acknowledgement of receipt of your complaint
5/2 – SUBJECT: MASCO Follow-up – Forward of CHEERS Letter to CEC
5/15 – SUBJECT: RE: Masco – Status
6/9 – SUBJECT: RE: Masco Revised – Acknowledgement of revised Lilly complaint to CEC
6/12 – SUBJECT: MASCO Complaint – Recommendations for changes to revised Lilly complaint to CEC

Please let me know if you would like these in hard copy, as well as and future communications on this matter sent to you by mail.

I want to point out that there are two complaint processes referenced in Title 20. The one you have invoked with CHEERS was originally intended to address consumer-related problems as opposed to business-to-business complaints. Thus it is not specifically responsive to this situation, which has clearly identified the need for more clear procedures for the latter type complaint.

Title 20 1673 (h)(3) Complaint response system. Each provider shall have a system for receiving complaints. The provider shall respond to and resolve complaints related to ratings and field verification and diagnostic testing services and reports. Providers shall ensure that raters inform purchasers and recipients of ratings and field verifications and diagnostic testing services about the complaint system. Each provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the provider

CHEERS takes the specific allegations in your complaint seriously and the process we must follow must consider the one which the CEC has set out for themselves in Title 20, which in summary is:

1. Complaint proceedings address alleged violations of statutes, orders, decisions or regulations of the CEC; investigation proceedings address the applicability of statutes, etc. So we are talking complaint proceedings.
2. Any person may file a complaint; it's filed with the General Counsel of the CEC and under penalty of perjury.
3. Within 30 days after receipt of complaint, it's dismissed or served on respondent.
4. Within 30 days after service, an answer is required.
5. Within 90 days after receipt of complaint, a hearing commences before an assigned committee or hearing officer.
6. Within 14 days after hearing, "to the extent reasonably possible," a proposed decision is made available.
7. Matter is scheduled for consideration by full commission "at the earliest reasonable date."

I assure you that CHEERS is interested in resolving this situation so that we can get on with the real object of our work.

I am away from the office for the remainder of the week and will not be available until Monday.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

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From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Thursday, July 10, 2008 12:09 PM
To: Robert Scott
Cc: Bill Lilly; John Richau
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Robert: I will email you my meaning as soon as I get a break to do so, but I think I may have misstated my position or the interpretation of what I meant is incorrect, or better yet, I needed to state more clearly what I am asking. D But you are correct about these communications. I just have not received the "promised" investigation determination. Everyone I talk to, including CEC and you, feel this is a travesty and dangerous to our industry. Yet no one wants to make a stand. Clearly, CEC staff has told us that they privately agree, and that they feel like it is CHEERS' responsibility to address this issue since CHEERS is the certifying Provider and the Title 20 wording is clearly addressing this issue. But what I hear from the CEC is they are forwarding it to you, and what CHEERS says (official position) they have put it in the hands of the CEC. Clearly, you stated that the CEC has said that they will do nothing to remedy this problem without a formal complaint. (by the way, they officially have and have had a "formal complaint") and clearly CEC is denying any such pending action of investigation or any knowledge of a problem of "waiting for a formal complaint". So, here we are again, jeopardizing the industry standard and hurting the industry as well as allowing a private company, MASCO receive Public GOODS monies in violation of the State of California Energy Code and the CLSB's professional code as stated in the letter from CEC to Masco well over a year ago now, and without so much as a written response. Cheers has "jumped" on other "Rater problems" with immediate action and investigation. Yet, as you state, the Board is concerned about "law suits" over eligibility and certification. Yes, Cheers is probably right to be concerned, because they knowingly issued certification to the individuals in Masco's employee knowing full well they we under the Masco Umbrella and the Energy Sense Company was wholly owned by Masco. I understand that issue. However, it is setting a bad example for the rest of the Ratership that CHEERS is not addressing this matter. It provides an uneven playing field for all raters and their own interests. Is Masco so big that it can walk over the rules and the CEC as well, scaring the CHEERS provider as to legal battles? It would sound as though the issue of Bill Lilly's Masco Scare tactics is alive and working, as he stated and warned. Robert, clearly the issue is important and has risen to a level of needing immediate attention. My statement about not receiving written documentation on the matter, meant from an investigative or conclusion position. So it is my request or charge from my written email (which I asked you to accept, and grateful that you did) to investigate and determine, that I have not received any written notification or position. I am asking for the Board to take a formal written position on the Masco issue and their (Masco's) eligibility under Title 20 for all Raters to understand and read. I hope that clears the misunderstanding, you and I know we need to avoid in this situation. I apologize for any misleading statements and written communications that infer I have not heard from you on this matter. While CHEERS may not think the only problem here is that I have not "heard what I want to hear CHEERS say" it is that no formal investigation and findings have been written and made public as to the Broads' or CHEERS' position on the MASCO problem. I do not take this lightly, as a CHEERS supporter and a believer in the Energy Conservation movement over just producing more, I believe it is in the best interest of the industry and the "third party credibility" to provide true documented energy savings, without question as to its validity and authenticity, where no ulterior motivation exists, i.e. profits. Clearly, all the Masco inspections of Masco owned Companies pass the first time and have no rejections, you of all people know that. It is funny that the Masco companies fail more times as a percentage by independent Raters than at all with a Masco Energy Sense rater. That is proof in itself that they are without blame, (sarcasm). Robert, I have no idea what you mean by paragraph 5 of your email. And it goes that the matter of our last telephone conversation, avoidance of the matter, Finding ways to "not address the situation" such as we are now terming it a Business to Business complaint, if I understand even a little of what you have said here in this paragraph. It is clearly the responsibility of CHEERS CHARTER and Franchise under TILTE 20 as to this matter of Masco's eligibility and CEC responsibility to address the apparent violation. Or to at least determine if there is a violation. As an example, DuctTesters is a corporation, so under the current "non action policy" I should have the same rights to invest in other start my own insulation company, correct. Is that a violation? I has the Board to answer this question in earnest, because it is a serious question. I am a CHEERS Rater and if I am to do this, would then be under the scrutiny of CHEERS as to my "conflict of interest in by HERS rating, correct. I believe Robert, that we are on the same team and that you as well as I have the best interest of the industry and the energy conservation at heart. I believe that, but CHEERS has an obligation to the other Raters and myself, that they serve to make a determination and to address this matter if the determination is adverse to either my charge or the code. That is what I have been asking. If that is not clearly the case, then I apologize and let's clear the air and understand what it is I have written my complaint about. Everyday that goes by, enhances the ability of Masco to operation in violation and "at will" with the CEC code and the CHEERS rules and Board. It is on the Board to address and it is their responsibility alone. When the air clears, however this turns out, and if the future allows Masco and others to control their bottom lines by walking on and violating Title 20 and the CEC Energy Code on a daily basis, California

and CHEERS will not have lead the path as they have in the past. Home Developers and New homeowners will be at odds as to the accuracy of the installations that Energy Sense has done and to what integrity. The bottom line for CHEERS and RATERS is intention and integrity. Can that be insured by CHEERS if the profit of a Company is based so heavily on the same company installing as the verifier or certifier. We all see it on a daily basis, it doesn't work. And now it involves Public Goods monies. At some point Robert, it will be addressed, and when it does, I will be there. And even if it is adverse to my stance and what you say is your stance, then the World will have lost, because the energy will not have been saved and the overriding concern for profit by the non independent rater companies (Mascos) will have won. It is on us to remedy this situation, or children and their future are at stake. The future of building Green house gas emissions is the really enemy here. dave

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From: Robert Scott
Sent: Monday, July 14, 2008 12:23 PM
To: Dave Hegarty
Subject: RE: Masco, Energy Sense and Conflict of Interest rules

Dave:

It is going to take me a bit of time to properly process what you have written. This is not meant to lecture, however for me, tracking the various points that you are trying to make in a single paragraph is challenging. I would like to ensure my understandings are correct as to any facts it contains. Thank you for your patience.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4455

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From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Monday, July 14, 2008 12:58 PM
To: Robert Scott
Subject: personal

Robert: it is with great regret I received your email today. I cannot imagine that you can be the least bit confused by the task at hand or the request for formal investigation. The only Confusing issue here is "WHY IS CHEERS STALLING TO MAKE A DETERMINATION' AND WHY DOES CHEERS REALLY NOT WANT TO ADDRESS SOMETHING THAT IS GOOD FOR THE INDUSTRY AND GOOD FOR ALL RATERS", even the raters that are employed by Masco. IT IS CLEARLY IN THE BEST INTEREST OF CALIFORNIA AND THE HERS INDUSTRY, AND CLEARLY NOT GOOD FOR BOTH OF

THESE IF IT CONTINUES. CALCERTS HAS STATED THAT THEY WILL NOT CERTIFY MASCO BECAUSE OF THE CONFLICT OF INTEREST. WHY IS CHEERS RELUCTANT AND IN A DODGE MODE!

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Wednesday, July 23, 2008 6:30 PM
To: Robert Scott
Subject: determinations

Robert: I still have not heard hide nor hair about the continued issue of Masco certification by CHEERS authority. I still have not gotten a "promised determination" on the issue of Masco's ability to HERS rate the very installations of energy measures called out in the T-24s. A determination as to their ability to operate in the face of the CEC Title 20 rules on Conflict of Interest. I have not been provided with CHEERS process for investigation and determination of these kinds of processes, required to be in place and accessible to the public and RATERs. More than 90 days have gone by without response to the issues or processes. When can we expect CHEERS and the Board of CHEERS to provide a complaint system for such issues and when might we have a determination on the Masco situation as they operate and brag about operating under the CHEERS umbrella with all authority provided by CHEERS?

I hope this is understandable and straight forward in its meaning. Thanks Dave Hegarty

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From: Robert Scott
Sent: Tuesday, August 05, 2008 8:21 AM
To: Dave Hegarty
Subject: Energy Sense Investigation Update

Dave:

I wanted to update you: CHEERS is currently in communication with Energy Sense's legal counsel. There are some timing delays on both CHEERS' and their parts. Don't expect anything more until after Aug 18th, when I should provide additional updates.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Tuesday, August 05, 2008 8:52 AM
To: Robert Scott
Cc: john@certified-ec.com; Tommy Young; Amy Chen; Bert Sanchez; Bill Dakin; Don Hegarty; FDupre@ConSol.ws; Karen Williams; Rosie Smith
Subject: RE: Energy Sense Investigation Update

Robert: I know you don't see this in the same light as I do and for that matter CEC and the Tile 20 rules. I am saying and charging CHEERS with making a determination after an investigation (for which you have no current procedure in place in writing). CHEERs is sitting on this awaiting CEC to make a decision and CEC has already stated that it is CHEERS certification of MASCO and therefore if Masco is found to be in violation then CHEERS too is in violation. I don't think that CHEERS understands the magnitude of the charges I have made to them in writing. CHEERs is the Certifier, CHEERS alone stands as the organization that has misinterpreted Title 20 and the conflict of interest rules. The CEC is your Certifier. They approve CHEERS for the Providership. Therefore, I once again I charge CHEERS and the Board with making a decision as to the validity of the Masco Certification, from investigation by CHEERS with established procedures published for the public to access and to use, as provided for in the Title 20 rules. CHEERS is allowing the CEC to make a decision that is the responsibility (as Bill Pennington said at our March 2008 meeting) investigate and determine the extent of any violation of the rules under Title 20 as administered through CEC and Certified by CHEERS. It is my understanding that this is the ruling that will be handed down from CEC to CHEERS and that then the Clock will start for CHEERS. But in reality, I have made the request to CHEERS to investigate the matter of Masco's violation of the Title 20 conflict of interest rules in March of 2008 to CHEERS and you personally as well as in writing. The Board must determine for themselves either Masco is or is Not in violation of the conflict of interest rules and cannot skirt this issue any longer. This is exactly why the interests of the raters are a major concern for many raters as the providers speak for the Raters at the CEC level. I am again requesting a formal investigation by CHEERS into the Masco conflict of interest rules violations. That a determination is made by CHEERS independently of any CEC rulings, and in compliance with their obligation under their Providership and certification by the CEC. I urge you to take seriously the obligation and the concern for which this charge has been leveled. Thank you so much for your attention to this matter.

Dave Hegarty

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Monday, August 11, 2008 6:56 PM
To: Robert Scott
Subject: Membership and Board membership

Robert: Please consider this as a request from me to CHEERS as to the Board Membership and a full Rater membership roster. I would like to lobby the Board and request copies of the Board meetings under the Public information Act. I would like the Roster for contacting the membership as to the board proceedings. Thank you so much. dave

From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Thursday, August 14, 2008 6:14 PM
To: Robert Scott
Subject:

Robert: Here is a highlighted copy of the Title 20 rules on Conflict of Interest and of the Providers responsibilities under their CEC certification. It clearly defines CHEERS role and Responsibility for Certifying to CEC that the rater, under the Rater Agreement must meet the Conflict of Interest Rules and for CHEERS to acknowledge and certify that it is true, they are not in violation of the conflict. I charge the BOARD and you with answering to this charge. While I have asked you to provide me with the method and system for filing charges (which I have filed with you in the past and no paperwork was required, for which you acted) and you have refused, (not providing me with the written process as required by the Title 20 Providers responsibility is the same as refusing) I have no other coarse but to try and seek a reasonable and legally acceptable course of action, such as this email, as a vehicle for the process that CHEERS and your Board refuses to respond. Therefore I am asking you to accept this reasonable request and procedure for investigation of Masco as Conflict of Interest violations under the Title 20 as here produced. This request for investigation is in response to your response to me on Monday August 11, 2008 at 2:00 p.m. in the afternoon. And your response was that you were only investigation the actions of and the knowledge of Raters under the Masco Umbrella, because it is your position (and possibly the Boards) that CHEERS Certifies the Rater not the Agency. But as you know, the Truth is that Masco Paid for the Class that the Masco/Energy Sense Raters attended and were taught by CHEERS authority. In other words, Your assumption that CHEERS certified the individual raters is incorrect, given that Masco paid each and every rater in attendance, fees for certification as well as wages. And therefore CHEERS is soley responsible for Masco certification and the individuals belonging to Masco. They are Masco Employees and Masco owns Energy Sense entirely as well as insulation companies and window companies that install energy conservation measures controlled by the CEC and the California Energy Code, describe clearly in Title 20 section 1673, as a conflict of interest. Surely other agencies have paid for individuals to attend and be certified as a HERS rater, but those agencies were not in conflict with or in violation of the Conflict of interest rules as provided in section 1670 through 1675. And furthermore, The raters and agencies that have done so, have not openly and without fear of prosecution solicited other Masco business as a result of their HERS certification. By the way, The reverse of that is also true, as I have described in detail to you in many emails, that Masco has given discounts on other products and services they produce and install to solicit Masco HERS services and Masco products and services in other areas. If you don't remember, it was with Renovo Homes in the Sacramento area with PG&E personnel present. It is with this charge that I urge you to take seriously, that I am forced to find a "reasonable vehicle" for the procedures to "CHARGE" CHEERS with this task and violations and ask for investigation of the Masco violation of Title 20.

As a separate issue, CHEERS is obligated to produce in writing the systems and processes for "Complaint Response System" as required in section 1673 H(3) under Title 20. As a Rater and as a Certified CHEERS Rater, CHEERS as a 503C Corporation, and as Director, you are obligate to answer this letter or review and deny the charges herein. As a 503 C CHEERS is required to be a "public benefit" agency. I Respectfully request an answer to these charges that addresses the real issues stated herein. If you are not answering because of a legal obligation or are under legal advice not to do so, please state so formally in writing. As a rater, I would find it offensive if CHEERS is not responding to their obligations under Title 20, to its Raters, the raters that they have often said they are serving. Robert this has become a serious situation.

Dave Hegarty

From: Robert Scott
Sent: Friday, August 15, 2008 12:16 PM
To: Dave Hegarty
Subject: RE:

Dave:

I have forwarded this to CHEERS legal counsel for review and will have a formal reply for you next week.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

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From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Friday, August 15, 2008 12:19 PM
To: Robert Scott
Subject: RE:

Thank you Robert, dave

From: Robert Scott
Sent: Friday, August 22, 2008 12:00 PM
To: Dave Hegarty
Subject: CHEERS response to your inquiries

Dave:

I would like to respond to the various inquiries you have made and issues that you have expressed concerns about. While you may or may not agree with the responses and actions that CHEERS makes, I want to assure you that the CHEERS Board of Directors is committed to supporting a strong, reliable and credible HERS industry. In this context I offer these responses to the issues identified in communications from you.

First, in researching your inquiry regarding the "Complaint Response System" in Title 20, CHEERS was approved according to the following in its application to the CEC:

(1)Complaint response system. Each provider shall have a system for receiving complaints. The provider shall respond to and resolve complaints related to ratings and field verification and diagnostic testing services and reports. Providers shall ensure that raters inform purchasers and recipients of ratings and field verifications and diagnostic testing services about the complaint system. Each provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the provider.

CHEERS intends to meet these requirements, in part when issuing Certificates of Field Verification and Diagnostic Testing with an attachment containing the statement:

"If you have a concern or complaint regarding this report or the services used in obtaining it, you may contact:

CHEERS, Inc.
Customer Service
9400 Oakdale Avenue
Chatsworth, California 91311
(818) 701-3277 "AND
As described in Attachment 5.

Attachment 5 is the CHEERS Quality Assurance Program, which has been updated several times and is referenced by the CHEERS Rater Agreement, which all raters sign. The QA Procedures are easily available on the CHEERS Registry web site in the support section, along with all the other current CHEERS policies. Clearly, the initial approval envisioned the complaint process as affecting consumer-related inquiries regarding rating and field verification services. While items like the CHEERS corporate name and address have been changed and updated, others such as the statement above may not have been, which I conclude was an unintentional oversight.

I would point out that most of the operational details related to Rater performance, including field verification measures, procedures and documentation are governed by Title 24. Title 20 has not been updated since initial adoption in 1999 and all changes affecting raters were made only in the three updates to the Title 24 Building Energy Efficiency Standards in 1998, 2001 and 2005. While I did not participate in the 2005 Title 24 update proceedings and had minimal involvement in 2001, it was my job as CHEERS Technical Director, in close collaboration with CEC and other stakeholders, to ensure that there was a HERS Provider ready for approval when the CEC adopted the 1998 BEES in August 1999. I hope you can appreciate that this effort was the formal introduction of the rater's role into the homebuilding industry in California.

I would encourage you to view the current HERS Phase II proceeding for updating Title 20 as an opportunity to clarify the rules and make your views on the process known. The adoption of these revisions will require the HERS Providers to show how they intend to meet the requirements of the new regulations and I am confident that CHEERS will meet and exceed the minimum requirements of the regulation.

Second, I cannot accommodate your request for the "membership roster" of CHEERS raters because of privacy concerns and the lack of approval from the individual raters. We have considered offering an "opt-in" choice that would allow raters the option for sharing their contact information with third parties, however, defining who we would release this information to is problematic. In the age of spam you can see the drawbacks to providing information this without proper approval by our raters.

Third, I am the point of contact for the CHEERS Board of Directors and am responsible for informing them of the issues and inquiries made of CHEERS. As the spokesperson, I convey CHEERS policy and positions. As I am unable to

identify the "Public Information Act" you refer to, I cannot respond to it for the information that you request. CHEERS complies with all Federal and State laws pertaining to its status as a nonprofit organization.

Lastly, pertaining the status of your complaint to CHEERS regarding Energy Sense (Masco) – The matter is now being decided by the California Energy Commission and CHEERS has received the following advice from Legal Counsel:

1. CHEERS does not comment on ongoing legal proceedings.
2. The State of California investigation takes legal precedence, and the State of California decision controls.
3. CHEERS expects full and fair legal proceedings and looks forward to the final decision which will provide legal precedent and legal guidance.
4. When a final decision is made, CHEERS will act in accordance with the decision.
5. When a final decision is made, it will have been made by the State of California. All parties should respect and defer to the proceeding while it is ongoing, and act in accordance with the decision.

I hope that you will accept this as CHEERS response to the variety of concerns you have expressed over the past months and that the processes in motion will address some of your current concerns and will set precedent for the future.

CHEERS shares your goal of a healthy and credible HERS industry. We are faced with this developing industry inside a changing marketplace. The challenges ahead include the changes required by the 2008 Title 24 standards and the enormous potential represented by the adoption of more comprehensive rules if HERS Phase II for rating in existing homes. I believe it is important for me to focus on leveraging CHEERS' resources on these important tasks.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

From: Robert Scott
Sent: Friday, September 05, 2008 3:58 PM
To: Dave Hegarty
Subject: Phone message to CHEERS legal counsel

Dave:

CHEERS Legal Counsel has been out of town all week, so she asked me to email you in response to your voicemail message to her.

Since legal proceedings are ongoing at the CEC, she, like everyone associated with CHEERS, is unable to speak with you.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

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From: Dave Hegarty [mailto:DaveHegarty@ducttesters.com]
Sent: Tuesday, September 09, 2008 8:35 AM
To: Robert Scott
Cc: H Thomas Beck
Subject: RE: Phone message to CHEERS legal counsel

Robert: it is clearly a violation for CHEERS to ignore the request for a policy and procedure regarding complaints. It is clearly required under the CEC Title 20 rules. I have in good faith requested that of your attorney and of CHEERS. And your promises to complete tasks that you yourself chose, have not been completed. This is exactly why a Rater organization is necessary in light of the human nature of Protecting themselves and cover up. I urge you to comply with the request for Written complaint process that you say you have, that you say you wrote some years ago, and you say you cannot find. You also told me that it is still in your head, but you have not written it down for us to look at and for me to file a complaint.

So please pass this along to your attorney , requesting that the board of CHEERS respond to the request for complaint process (which has nothing to do with MASCO issues, but is a clear requirement of Title 20). And quite frankly, Robert this is quite a distressing attitude that CHEERS is promoting. It is now very difficult for CHEERS to truly say and mean that they REPRESENT THE RATER AND THE RATER INTEREST.

If this needs to be in a more formal vehicle such as a formal letter to be accepted by your Board or Attorney, please notify me in writing. Unfortunately Robert this is not the kind of situation we had hoped for, and CHEERS is leaving no road for compromise and cooperation. I urge the Board to reconsider their position. Dave Hegarty

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NOTICE:

This message is for the designated recipient only and may contain privileged or confidential information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of this e-mail by you is prohibited.

No virus found in this incoming message.
Checked by AVG - http://www.avg.com
Version: 8.0.169 / Virus Database: 270.6.20/1666 - Release Date: 9/11/2008 07:03

3. Written correspondence between Masco/Masco-related entities and CHEERS re: alleged conflicts

July 25, 2008

Jaime Padron CCNJP285383
EnergySense
1441 Coldwell Ave Ste D
Modesto, California 95350

YOUR ATTENTION IS REQUIRED REGARDING THE FOLLOWING MATTER

Dear Jaime:

I am informing you that CHEERS has received a complaint against EnergySense, charging violation of the conflict of interest provisions specified in the California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670 through 1675 (California Home Energy Rating System Program). The complaint alleges that EnergySense is a subsidiary of Masco Corporation and as such some of the work performed by raters employed by EnergySense violates the independent entity definition and is not allowable under State law. These allegations are not necessarily directed at the performance of individual raters in the employ of EnergySense, however, if such a relationship exists between EnergySense and Masco Corporation or one or more Masco subsidiaries, then the right of any EnergySense rater to perform Title24 HERS verification under CHEERS' authority to certify raters, may be in question. It is CHEERS' responsibility to confirm that Raters whom we certify are in compliance with these requirements.

The specific issue in question relates to the installation of measures required for compliance with Title 24 by a contractor that is related to the HERS Rater. For example: a rater who verifies Quality Installation of Insulation cannot be related to the installing contractor. This rule applies to all HERS-verified features and all raters providing verification services involving compliance with Title 24.

Your Rater certification through CHEERS is as an individual and the agreement that you signed includes the following provisions:

- HERS RATER shall comply with all applicable federal, state and local laws and regulations.

- HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference, understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(j) of the Regulations.

A copy of your signed agreement is enclosed.

For your reference, the restricted relationships are described in the following information extracted from Title 20. These apply to verifications performed by all Raters certified by CHEERS:

- Section 1671. Definitions.

o Financial Interest means an ownership interest, debt agreement or employer/employee relationship. Financial interest does not include ownership of less than 5% of the outstanding equity securities of a publically traded corporation.

o Independent Entity means having no financial interest in, and not advocating or recommending the use of any product or service as a means of gaining increased business with, firms or persons specified in Section 1673(i).

- Section 1673. Requirements for Providers, subsection (i) (2).

o Providers and raters shall be independent entities from the builder and from the subcontractor installer of energy efficiency improvements field verified or diagnostically tested.

A RESPONSE TO THIS INQUIRY IS REQUIRED!

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If you have any questions or require additional information, please contact me at (800) 424-3377.

Sincerely,

Robert A. Scott, CHEERS
Executive Director

Attachments

VERIFICATION OF RATER AGREEMENT

I have reviewed a copy of the current *CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT* that contains my signature and verify that I am in compliance with its terms and conditions.

Jaime Padron
Printed Name

Signature

Date

July 25, 2008

Timothy Williams CCN23394974
EnergySense
1441 Coldwell Ave #D
Modesto, California 95350

YOUR ATTENTION IS REQUIRED REGARDING THE FOLLOWING MATTER

Dear Joshua:

I am informing you that CHEERS has received a complaint against EnergySense, charging violation of the conflict of interest provisions specified in the California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670 through 1675 (California Home Energy Rating System Program). The complaint alleges that EnergySense is a subsidiary of Masco Corporation and as such some of the work performed by raters employed by EnergySense violates the independent entity definition and is not allowable under State law. These allegations are not necessarily directed at the performance of individual raters in the employ of EnergySense, however, if such a relationship exists between EnergySense and Masco Corporation or one or more Masco subsidiaries, then the right of any EnergySense rater to perform Title24 HERS verification under CHEERS' authority to certify raters, may be in question. It is CHEERS' responsibility to confirm that Raters whom we certify are in compliance with these requirements.

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Sincerely,

Robert A. Scott, CHEERS
Executive Director

Attachments

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Joshua Perez
Printed Name

Signature

Date

July 25, 2008

Joshua Perez CCNJP392868
EnergySense
1441 Coldwell Ave #D
Modesto, California 95350

YOUR ATTENTION IS REQUIRED REGARDING THE FOLLOWING MATTER

Dear Joshua:

I am informing you that CHEERS has received a complaint against EnergySense, charging violation of the conflict of interest provisions specified in the California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670 through 1675 (California Home Energy Rating System Program). The complaint alleges that EnergySense is a subsidiary of Masco Corporation and as such some of the work performed by raters employed by EnergySense violates the independent entity definition and is not allowable under State law. These allegations are not necessarily directed at the performance of individual raters in the employ of EnergySense, however, if such a relationship exists between EnergySense and Masco Corporation or one or more Masco subsidiaries, then the right of any EnergySense rater to perform Title24 HERS verification under CHEERS' authority to certify raters, may be in question. It is CHEERS' responsibility to confirm that Raters whom we certify are in compliance with these requirements.

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Sincerely,

Robert A. Scott, CHEERS
Executive Director

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Joshua Perez
Printed Name

Signature

Date

July 25, 2008

Matthew Jordan CCNMJ193610
EnergySense
1441 Coldwell Ave #D
Modesto, California 95350

YOUR ATTENTION IS REQUIRED REGARDING THE FOLLOWING MATTER

Dear Joshua:

I am informing you that CHEERS has received a complaint against EnergySense, charging violation of the conflict of interest provisions specified in the California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670 through 1675 (California Home Energy Rating System Program). The complaint alleges that EnergySense is a subsidiary of Masco Corporation and as such some of the work performed by raters employed by EnergySense violates the independent entity definition and is not allowable under State law. These allegations are not necessarily directed at the performance of individual raters in the employ of EnergySense, however, if such a relationship exists between EnergySense and Masco Corporation or one or more Masco subsidiaries, then the right of any EnergySense rater to perform Title24 HERS verification under CHEERS' authority to certify raters, may be in question. It is CHEERS' responsibility to confirm that Raters whom we certify are in compliance with these requirements.

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Sincerely,

Robert A. Scott, CHEERS
Executive Director

Attachments

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Joshua Perez
Printed Name

Signature

Date

July 25, 2008

Israel Calleros CCNIC188228
EnergySense
1441 Coldwell Ave #D
Modesto, California 95350

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Dear Joshua:

I am informing you that CHEERS has received a complaint against EnergySense, charging violation of the conflict of interest provisions specified in the California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670 through 1675 (California Home Energy Rating System Program). The complaint alleges that EnergySense is a subsidiary of Masco Corporation and as such some of the work performed by raters employed by EnergySense violates the independent entity definition and is not allowable under State law. These allegations are not necessarily directed at the performance of individual raters in the employ of EnergySense, however, if such a relationship exists between EnergySense and Masco Corporation or one or more Masco subsidiaries, then the right of any EnergySense rater to perform Title24 HERS verification under CHEERS' authority to certify raters, may be in question. It is CHEERS' responsibility to confirm that Raters whom we certify are in compliance with these requirements.

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Sincerely,

Robert A. Scott, CHEERS
Executive Director

Attachments

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Joshua Perez
Printed Name

Signature

Date

July 25, 2008

Corey Bernhardt CCN92963136
EnergySense
1441 Coldwell Ave #D
Modesto, California 95350

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Dear Joshua:

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Joshua Perez
Printed Name

Signature

Date

July 25, 2008

David Bair CCN87994523
EnergySense
1441 Coldwell Ave #D
Modesto, California 95350

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Dear Joshua:

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Joshua Perez
Printed Name

Signature

Date

Robert Scott

From: Josie_Eisele@mascohq.com
Sent: Friday, September 05, 2008 1:40 PM
To: Robert Scott
Subject: EnergySense
Attachments: EnergySense.pdf

Ken Cole asked me to send you the attached letter.

(See attached file: EnergySense.pdf)

Josie Eisele
Masco Corporation
Legal Department
Phone: (313) 792-6218
Fax: (313) 792-6430

MASCO

MASCO CORPORATION

Kenneth G. Cole
Associate Corporate Counsel &
Counsel - Installation & Other Services
Masco Corporation
21001 Van Born Road
Taylor, MI 48180
Direct - (313) 792-6314
Facsimile - (313) 792-6430
Ken_Cole@Mascohq.com

VIA: EMAIL & REGULAR U.S. MAIL

September 5, 2008

Robert A. Scott
Executive Director
California Home Energy Efficiency Rating Services
20422 Beach Blvd., Suite 235
Huntington Beach, CA 92648

Dear Mr. Scott:

I am writing on behalf of EnergySense, Inc. to respond to letters dated July 25, 2008, sent by you to EnergySense's General Manager, Jaime Padron, and to the other EnergySense raters regarding a complaint received by California Home Energy Efficiency Rating Services (CHEERS). As I understand it, the complaint alleges violations by EnergySense's raters of the conflict of interest provisions specified in the California Home Energy Rating System (HERS) Program (Cal. Code of Regs., Title 20, §§ 1670-1675) when they inspect for purposes of Title 24 insulation installed by other Masco companies. I appreciate your extension of time to respond to your letter through today.

As we discussed in our telephone conversation a few weeks ago, California Living & Energy filed a similar complaint with the California Energy Commission (CEC) against EnergySense and Masco Corporation. EnergySense and Masco have filed answers to the complaint (which were served on CHEERS, among others) and expect the CEC to schedule a hearing shortly. As I told you previously and as outlined in the answers, EnergySense and Masco believe that EnergySense and its raters comply fully with the conflict of interest provisions at issue. We are preparing to present a more detailed response at the upcoming CEC hearing, and it is our expectation that, after the hearing, the CEC will reach the same conclusion.

In the meantime, I would like to respond to your letter and the complaint filed with CHEERS with a more detailed summary explaining why EnergySense and its raters

comply with the HERS conflict of interest requirements. I ask that you defer, however, any decision regarding the complaint CHEERS received until after the CEC proceedings are concluded. I appreciate your understanding and cooperation in these overlapping proceedings.

With respect to these complaints, it is our position that EnergySense and its individual raters operate in full compliance with the HERS conflict of interest provisions when they inspect insulation installed by other Masco companies. EnergySense's raters take very seriously their important role in ensuring the effective implementation of the Title 24 energy efficiency program requirements, and they fully recognize and embrace the need for raters to act independently of the builders and installers whose work they inspect.

Masco Corporation, EnergySense's parent company, carefully considered the HERS conflict of interest requirements when it created EnergySense two years ago. As I mentioned during our earlier conversation, in early 2006, we sought and received guidance from your predecessor, Tom Hamilton, regarding the appropriateness of the corporate structure and operating plan established for EnergySense. Significantly, Tom expressed his view that EnergySense's structure and business plan, which included the expectation that EnergySense raters would perform Title 24 inspections and ratings of insulation installed by separate Masco subsidiaries, would be consistent with the conflict of interest provisions.

Energy Sense's structure and operation was also explained to the CEC. In his October 2006 letter, David Bell, EnergySense's president, provided a detailed explanation of EnergySense and its corporate structure, ownership and operation to Tav Cummins of the CEC. Then again, in an August 2007 telephone conversation with Bill Staack and Tav Cummins (of the CEC), Masco and EnergySense provided the same and additional detailed information describing EnergySense and its operation. After this conversation, the staff did not voice any objections regarding EnergySense's compliance with the HERS program requirements, and did not ask EnergySense to change its operation or structure in any way.

Specifically, to the extent EnergySense has inspected and/or tested insulation installed by other Masco companies, it has done so within the parameters of the relevant statutes. Ca. Code of Regs., Title 20, § 1673(i) requires a rater to be an "independent entit[y]" from the builder or contractor that performs the installation. An "independent entity" is defined as "having no financial interest in, and not advocating or recommending the use of any product or service as a means of gaining increased business with," a builder or subcontract installer. Cal. Code of Regs. § 1671. A "financial interest" is defined as "an ownership interest, debt agreement, or employer/employee relationship. . . ." Cal. Code of Regs. § 1671.

These requirements are narrow by design and do not impose a blanket prohibition against all inspections conducted on installation work performed by a related entity.

Services Group, Inc. ("BSG"), American National Services, Inc. ("ANS"), and Masco Contractor Services of California, Inc. ("MCS of CA"). Consistent with the terms of the relevant statutes, EnergySense has no financial interest in and operates independently of those Masco subsidiaries:

- There is no direct or indirect ownership or subsidiary relationship between EnergySense and BSG, ANS or MCS of CA.
- EnergySense has no debt agreements with BSG, ANS or MCS of CA.
- EnergySense shares no employees with BSG, ANS or MCS of CA.
- Although EnergySense, BSG, ANS and MCS of CA are fully owned by Masco Corporation, the subsidiary companies operate as independent entities, while the parent company is a holding company that provides administrative and high-level corporate governance support.

Similarly, EnergySense's raters are employees of EnergySense, not BSG, ANS, MCS of CA or Masco, and they have no financial interest in the builders or contractors, including any of these other Masco companies, and do not advocate the use of any product or service of any of builder or contractor, including any of these other Masco companies, as a means of gaining increased business with any of them.

Moreover, the business relationships between EnergySense and the other Masco subsidiaries are governed by contract and not by the parent company. Notably, the contracts EnergySense has entered into with BSG, ANS and MCS of CA establish EnergySense as an independent contractor accountable directly to the builders (not the installers) for the rating services it provides. Under the terms of the contracts, EnergySense is prohibited from recommending or referring work to the other Masco subsidiaries, and neither EnergySense nor the other subsidiaries is obligated to use the other. Additionally, the bid prices for EnergySense's rating services are set by EnergySense without input by the installer subsidiaries, while the installers act as conduits for builder orders, invoices and payments to and from EnergySense without compensation from EnergySense. In addition, EnergySense raters are obligated to provide impartial, independent, true, accurate and complete test results and to comply with all applicable laws, codes and standards, including Title 24.

This kind of contractual arrangement is consistent with the permissible "three-party contracts" described in Example 2-7 in Section 2 of the 2005 Residential Compliance Manual. Such three-party contracts enable builders and home owners to realize beneficial cost savings resulting from heightened operating efficiencies of builders, installers and raters alike, while also avoiding prohibited conflicts of interest.

We believe the results of CHEERS' routine monitoring of EnergySense's raters demonstrate the thoroughness, accuracy and independence of the services provided by the

We believe the results of CHEERS' routine monitoring of EnergySense's raters demonstrate the thoroughness, accuracy and independence of the services provided by the raters. Indeed, as you explained, CHEERS' quality assurance inspections and monitoring have not identified any significant issues with the quality or integrity of the work performed by the EnergySense raters. Furthermore, the independence of EnergySense's raters is clearly illustrated by the actions taken by EnergySense raters to reject installation work performed by other Masco subsidiaries that failed to meet Title 24 standards. The raters' commitment to reject substandard installation work is unaffected by the identity of the installing company.

As a result, in response to your request, EnergySense's raters are proud to reaffirm their compliance with their current CHEERS® Title-24/Residential New Contruction Rater Renewal Agreements, including the conflict of interest provisions. Enclosed you will find copies of the CHEERS Rater Renewal Agreement signed by each of the following EnergySense raters: David Bair, Corey Bernhardt, Israel Calleros, Matthew Jordan, Jaime Padron, Joshua Perez, and Timothy Williams.

I hope that the information provided in and with this letter is sufficient to resolve any compliance concerns you might have. We would also appreciate any information or other assistance you might be able to provide that we can present in the upcoming CEC hearing. Please let me know if you have additional questions or suggestions. We look forward to continuing to work with CHEERS and to discussing this matter with you at your convenience.

Sincerely,

Kenneth G. Cole

Enclosures

VERIFICATION OF RATER AGREEMENT

I have reviewed a copy of the current *CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT* that contains my signature and verify that I am in compliance with its terms and conditions.

David Bair
Printed Name

Signature

9/4/08
Date

VERIFICATION OF RATER AGREEMENT

I have reviewed a copy of the current *CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT* that contains my signature and verify that I am in compliance with its terms and conditions.

Corey Bernhardt
Printed Name

Signature

9-4-08
Date

VERIFICATION OF RATER AGREEMENT

I have reviewed a copy of the current *CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT* that contains my signature and verify that I am in compliance with its terms and conditions.

Israel Calleros
Printed Name

Signature

9-5-08
Date

VERIFICATION OF RATER AGREEMENT

I have reviewed a copy of the current *CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT* that contains my signature and verify that I am in compliance with its terms and conditions.

Matthew Jordan
Printed Name

Signature

9-4-08
Date

VERIFICATION OF RATER AGREEMENT

I have reviewed a copy of the current *CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT* that contains my signature and verify that I am in compliance with its terms and conditions.

Jaime Padron
Printed Name

Signature

9/3/08
Date

VERIFICATION OF RATER AGREEMENT

I have reviewed a copy of the current *CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT* that contains my signature and verify that I am in compliance with its terms and conditions.

Joshua Perez
Printed Name

Signature

9/4/08
Date

VERIFICATION OF RATER AGREEMENT

I have reviewed a copy of the current *CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT* that contains my signature and verify that I am in compliance with its terms and conditions.

Timothy Williams
Printed Name

Signature

9/3/08
Date

The following email was sent Friday July 7, 2006. Mr. Hamilton ceased being Executive Director of CHEERS the following week. No one currently at CHEERS received this email, however we discovered it on February 26, 2009.

Subject	**Conflict of Interest - CEC**
From	Tom Hamilton
To	Brad Townsend; Dale Camany; Dave Bell; David Short; Rick Davenport
Sent	Friday, July 07, 2006 8:03 AM

Good Morning all,
I had my call yesterday with the CEC in response to the issues brought up by Bill Lilly at California Living. On the call was Bill Pennington (who we always need to keep happy) and Tav Cummings (CEC bureaucrat). I need to do some work on the Coast Building Products projects, need to make sure Coast raters are not doing the verifications on Coast jobs.

The short answer is I need some feedback from you. I played down the conflict of interest as much as possible and then hit them with the new arrangement of Energy Sense. Even with this new organizational structure, Bill is concerned about the conflict of interest. I told them this is going to be a totally separate company, and is part of an international company MASCO. MASCO is so big and publicly traded even the hint of not doing things correctly would raise red flags at MASCO. I indicated Energy Sense went through legal at MASCO to be created. Energy Sense is being created as a business unit since MASCO views HERS verifications as a viable business opportunity, not in any way a means to circumvent the regulations.

Having said all of this to Bill he is going to refer this issue to CEC legal folks, which is what we want. We don't want Bill to make arbitrary decisions.

My thought – we want to get ahead of the curve on this. Don't let Bill go into his legal people and tell them his version of the story, and have CEC legal folks agree. MCS draft something to CHEERS that explains the organizational structure and the process that MCS went through to create Energy Sense (i.e. Separate company, separate financials etc). If something is drafted by MCS legal people indicating how Energy Sense adheres to the requirements that would be extremely helpful. The regulations are not clear, so if your legal folks interpret the regulations a certain way, that would provide more credence to your position. I will provide a rough draft of the issues that should be addressed.

I know that Dale is on vacation, so maybe when he gets back we can have a conference call to discuss this further if warranted.

Let me know what you think.
Thanks,
Tom Hamilton

CHEERS - California Home Energy Efficiency Rating Services

Tom Hamilton
Executive Director

CHEERS

CHEERS
9400 Topanga Canyon Blvd.,
Suite 220
Chatsworth, CA 91311

thamilton@cheers.org

toll free: 800 4 CHEERS

www.CHEERS.org

phone: 818.407.1500
fax: 818.407.1188

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4. Reports/notes/memoranda generated by CHEERS/employees/agents/independent contractors upon completion of CHEERS' investigation into alleged conflicts

Minutes – CHEERS Board Meeting – April 17, 2008

Masco/EnergySense – Robert discussed the conflict of interest provisions in the Title 20 HERS Regulations as it pertains to the EnergySense raters. He said that a formal complaint has been drafted and is expected to be filed with the CEC. Board agreed CEC needs to make a ruling on this issue, and CHEERS will act in accordance with such ruling.

Action Item:

CHEERS to send letter, either from Robert or Carol, CHEERS Legal Counsel, asking CEC for guidance on the issue. Robert will also respond to Dave Hegarty, who filed a complaint with CHEERS.

Minutes – CHEERS Board Meeting - June 17, 2008

Robert recapped the MASCO/Energy Sense conflict of interest issue. Carol sent a letter to the CEC requesting guidance on the matter, and received a reply setting forth the CEC position that the CEC will take action only if a formal complaint is filed with the CEC. It is CHEERS' understanding that a formal complaint will be filed in the near future, and CHEERS looks forward to resolution of this issue.

Minutes – CHEERS Board Meeting - August 13, 2008

Robert discussed the formal complaint filed with the CEC by California Living & Energy and Duct Testers, Inc. against MASCO Corporation and EnergySense, Inc. alleging conflict of interest. We received a copy as an interested party. MASCO/EnergySense has 21 days to respond. Robert sent certified letters to the EnergySense Raters asking them to confirm compliance with their CHEERS rater agreements. The board confirmed the appropriateness of CHEERS not commenting on an ongoing legal proceeding.

NOTE: Robert = Robert Scott, CHEERS Executive Director
Carol = Carol Davis, CHEERS Legal Counsel

Robert Scott

From: Robert Scott
Sent: Friday, August 22, 2008 12:00 PM
To: Dave Hegarty
Subject: CHEERS response to your inquiries

Dave:

I would like to respond to the various inquiries you have made and issues that you have expressed concerns about. While you may or may not agree with the responses and actions that CHEERS makes, I want to assure you that the CHEERS Board of Directors is committed to supporting a strong, reliable and credible HERS industry. In this context I offer these responses to the issues identified in communications from you.

First, in researching your inquiry regarding the "Complaint Response System" in Title 20, CHEERS was approved according to the following in its application to the CEC:

(1)Complaint response system. Each provider shall have a system for receiving complaints. The provider shall respond to and resolve complaints related to ratings and field verification and diagnostic testing services and reports. Providers shall ensure that raters inform purchasers and recipients of ratings and field verifications and diagnostic testing services about the complaint system. Each provider shall retain all records of complaints received and responses to complaints for five years after the date the complaint is presented to the provider.
CHEERS intends to meet these requirements, in part when issuing Certificates of Field Verification and Diagnostic Testing with an attachment containing the statement:
"If you have a concern or complaint regarding this report or the services used in obtaining it, you may contact:
CHEERS, Inc.
Customer Service
9400 Oakdale Avenue
Chatsworth, California 91311
(818) 701-3277 "AND
As described in Attachment 5.

Attachment 5 is the CHEERS Quality Assurance Program, which has been updated several times and is referenced by the CHEERS Rater Agreement, which all raters sign. The QA Procedures are easily available on the CHEERS Registry web site in the support section, along with all the other current CHEERS policies. Clearly, the initial approval envisioned the complaint process as affecting consumer-related inquiries regarding rating and field verification services. While items like the CHEERS corporate name and address have been changed and updated, others such as the statement above may not have been, which I conclude was an unintentional oversight.

I would point out that most of the operational details related to Rater performance, including field verification measures, procedures and documentation are governed by Title 24. Title 20 has not been updated since initial adoption in 1999 and all changes affecting raters were made only in the three updates to the Title 24 Building Energy Efficiency Standards in 1998, 2001 and 2005. While I did not participate in the 2005 Title 24 update proceedings and had minimal involvement in 2001, it was my job as CHEERS Technical Director, in close collaboration with CEC and other stakeholders, to ensure that there was a HERS Provider ready for approval when the CEC adopted the 1998 BEES in August 1999. I hope you can appreciate that this effort was the formal introduction of the rater's role into the homebuilding industry in California.

I would encourage you to view the current HERS Phase II proceeding for updating Title 20 as an opportunity to clarify the rules and make your views on the process known. The adoption of these revisions will require the HERS Providers to show how they intend to meet the requirements of the new regulations and I am confident that CHEERS will meet and exceed the minimum requirements of the regulation.

Second, I cannot accommodate your request for the "membership roster" of CHEERS raters because of privacy concerns and the lack of approval from the individual raters. We have considered offering an "opt-in" choice that would allow raters the option for sharing their contact information with third parties, however, defining who we would release this information to is problematic. In the age of spam you can see the drawbacks to providing information this without proper approval by our raters.

Third, I am the point of contact for the CHEERS Board of Directors and am responsible for informing them of the issues and inquiries made of CHEERS. As the spokesperson, I convey CHEERS policy and positions. As I am unable to identify the "Public Information Act" you refer to, I cannot respond to for the information that you request. CHEERS complies with all Federal and State laws pertaining to its status as a nonprofit organization.

Lastly, pertaining the status of your complaint to CHEERS regarding Energy Sense (Masco) – The matter is now being decided by the California Energy Commission and CHEERS has received the following advice from Legal Counsel:

1. CHEERS does not comment on ongoing legal proceedings.
2. The State of California investigation takes legal precedence, and the State of California decision controls.
3. CHEERS expects full and fair legal proceedings and looks forward to the final decision which will provide legal precedent and legal guidance.
4. When a final decision is made, CHEERS will act in accordance with the decision.
5. When a final decision is made, it will have been made by the State of California. All parties should respect and defer to the proceeding while it is ongoing, and act in accordance with the decision.

I hope that you will accept this as CHEERS response to the variety of concerns you have expressed over the past months and that the processes in motion will address some of your current concerns and will set precedent for the future.

CHEERS shares your goal of a healthy and credible HERS industry. We are faced with this developing industry inside a changing marketplace. The challenges ahead include the changes required by the 2008 Title 24 standards and the enormous potential represented by the adoption of more comprehensive rules if HERS Phase II for rating in existing homes. I believe it is important for me to focus on leveraging CHEERS' resources on these important tasks.

Best Regards,

Robert Scott, CHEERS
Executive Director
(714) 500-4440

Robert Scott

From: Douglas Beaman [Doug@DougBeaman.com]
Sent: Friday, February 27, 2009 7:14 AM
To: Robert Scott
Subject: Energy Sense
Attachments: Energy Sense Summary.xlsx

Robert
The attached table is a summary of QA for Energy Sense in 2007 & 2008. Kelly will get the total number of jobs from the registry so we can create a percentage (unless it looks terrible). Does this look like a reasonable approach?

Doug Beaman
Douglas Beaman Associates LLC
608 - 13th Street
Modesto, CA 95354
(209) 524-1000

Rater Name	Each entry represents a specific house where Quality Assurance was performed. The date of the QA visit and the HERS measures are indicated for each home.															Number of QA's
Jaime Padron	9/6/2008	10/27/2008														
	NSHP	BD														
Matthew Jordan	6/7/2007	6/7/2007	8/9/2007	8/9/2007	11/29/2007	11/29/2007	7/30/2008	7/30/2008	7/30/2008	7/30/2008	7/30/2008	7/30/2008	7/30/2008	No longer employed with Energy Sense		
	DT	DT	BD	DT	DT	DT	DT	DT	DT	DT	DT	DT	DT			
Corey Bernhardt	8/9/2007	8/9/2007	11/27/2007	11/27/2007	11/27/2007	7/31/2008	7/31/2008	7/31/2008	7/31/2008	7/31/2008	2/9/2009					
	DT,EER,TXV	DT,EER,TXV	DT	DT	DT	QII	QII	DT	DT	DT	QII					
Randy Toy	06/20/07	06/20/07	06/20/07	06/20/07	06/20/07	06/20/07	No longer employed with Energy Sense									
	DT	DT	DT	DT	DT	DT										
Timothy Williams	6/7/2007	6/7/2007	6/7/2007	2/20/2008	3/10/2008	3/13/2008	7/25/2008	7/25/2008	7/25/2008	10/27/2008	10/27/2008	10/27/2008				
	DT, BD	DT	DT	BD	DT, QII	QII	DT	DT	DT	DT	DT	DT				
Israel Calleros	5/16/2008	5/16/2008	5/16/2008	7/29/2008												
	DT	DT	DT	DT												
David Bair	10/27/2008	10/27/2008	No longer employed with Energy Sense													
	DT	DT														
Registry Review	Name of Subdivision and City of Registry Review			Barrington Estates, Vacaville		Carrington Manor, Vacaville		Kensington, Manteca		Rivercrest, Redding		Laguna pointe, Sacramento				

Notes: HERS Measures

DT	Duct Testing
BD	Blower Door Testing
EER	EER Verification
NSHP	New Solar Home Program
QII	Quality Insulation Installation

5. Correspondence between CEC and CHEERS/employees/agents/independent contractors re: alleged conflicts

From: Tav Commins [mailto:Tcommins@energy.state.ca.us]
Sent: Tuesday, August 22, 2006 2:34 PM
To: doug@dougbeaman.com; Bill Pennington
Cc: Melinda Merritt
Subject: RE: Contact information for MASCO

Wanted to let you know that I talked to Dave Bell at Masco about a possible conflict with MASCO starting up a new HERS testing service that will check their own work. I sent him the attached which are all the requirements regarding conflict of interest. I asked Dave to send us a letter how this new company does not defy our conflict of interest requirements.

Tav

>>> "Doug Beaman" <doug@dougbeaman.com> 08/08/06 9:13 AM >>>

Dave Bell, National Sales Manager 720 234-3265

Doug Beaman

Douglas Beaman Associates LLC

209-524-1000

Doug@DougBeaman.com

From: Tav Commins [mailto:Tcommins@energy.state.ca.us]
Sent: Tuesday, August 08, 2006 8:53 AM
To: doug@dougbeaman.com
Subject: Contact information for MASCO

Do you have the contact information?

Tav

HERS Regulations

' 1673. Requirements for Providers.

(i) Conflict of Interest.

(1) Providers shall be independent entities from raters who provide field verification and diagnostic testing.

(2) Providers and raters shall be independent entities from the builder and from the subcontractor installer of energy efficiency improvements field verified or diagnostically tested.

' 1671. Definitions.

Financial Interest means an ownership interest, debt agreement, or employer/employee relationship. Financial interest does not include ownership of less than 5% of the outstanding equity securities of a publicly traded corporation.

Independent Entity means having no financial interest in, and not advocating or recommending the use of any product or service as a means of gaining increased business with, firms or persons specified in Section 1673(i).

NOTE: The definitions of "independent entity" and "financial interest," together with Section 1673(i), prohibit conflicts of interest between providers and raters, or between providers/raters and builders/subcontractors.

Residential Compliance Manual

The Energy Commission expects HERS raters to enter into a contract with the builder (not with sub-contractors) to provide independent, third-party diagnostic testing and field verification, and the procedures adopted by the Energy Commission calls for direct reporting of results to the builder, the HERS provider, and the building official. Although the Energy Commission does not recommend it, a "three-party contract" with the builder is possible, provided that the contract delineates both the independent responsibilities of the HERS rater and the responsibilities of a sub-contractor to take corrective action in response to deficiencies that are found by the HERS rater. Such a "three-party contract" may also establish a role for a sub-contractor to serve as payment provided the contract ensures that monies paid by the builder to the HERS rater can be traced through audit. It is critical that such a "three-party contract" preserves rater independence in carrying out the responsibilities specified in Energy Commission-adopted field verification procedures. Even though such a "three-party contract" is not on its face in violation of the requirements of the Energy Commission, the closer the working relationship between the HERS rater and the sub-contractor whose work is being inspected, the greater the potential for compromising the independence of the HERS rater.

From Page 2-16 and 2-17

Question

I heard that there are conflict-of-interest requirements that HERS raters must abide by when doing field verification and diagnostic testing. What are these requirements?

Answer

HERS raters are expected to be objective, independent, third parties when they are fulfilling their duties as field verifiers and diagnostic testers. In this role they are serving as special inspectors for local building departments. By law HERS raters must be independent entities from the builder or subcontractor installer of the energy efficiency features being tested and verified. They can have no financial interest in the installation of the improvements. HERS raters can not be employees of the builder or subcontractor whose work they are verifying. Also, HERS raters cannot have any financial interest in the builder's or contractor's business or advocate or recommend the use of any product or service that they are verifying. Section 106.3.5 of the CBC prohibits a special inspector from being employed (by contract or other means) by the contractor who performed the work that is being inspected.

The Energy Commission expects HERS raters to enter into a contract with the builder (not with sub-contractors) to provide independent, third-party diagnostic testing and field verification, and the procedures adopted by the Energy Commission calls for direct reporting of results to the builder, the HERS provider, and the building official. Although the Energy Commission does not recommend it, a "three-party contract" with the builder is possible, provided that the contract delineates both the independent responsibilities of the HERS rater and the responsibilities of a sub-contractor to take corrective action in response to deficiencies that are found by the HERS rater. Such a "three-party contract" may also establish a role for a sub-contractor to serve as contract administrator for the contract, including scheduling the HERS rater, invoicing, and

payment provided the contract ensures that monies paid by the builder to the HERS rater can be traced through audit. It is critical that such a "three-party contract" preserves rater independence in carrying out the responsibilities specified in Energy Commission-adopted field verification procedures. Even though such a "three-party contract" is not on its face in violation of the requirements of the Energy Commission, the closer the working relationship between the HERS rater and the sub-contractor whose work is being inspected, the greater the potential for compromising the independence of the HERS rater.

CHEERS and CalCERTS have been approved by the Energy Commission to serve as HERS providers to certify and oversee HERS raters throughout the state. These providers are required to provide ongoing monitoring of the propriety and accuracy of HERS raters in the performance of their duties and to respond to complaints about HERS rater performance. In cases where there may be real or perceived compromising of HERS rater independence, they are responsible for providing increased scrutiny of the HERS rater, and taking action to ensure objective, accurate reporting of diagnostic testing and field verification results, in compliance with Energy Commission adopted procedures.

Building officials have authority to require HERS raters to demonstrate competence, to the satisfaction of the building official. Building officials should place extra scrutiny on situations where there may be either real or perceived compromising of the independence of the HERS rater, and exercise their authority to disallow a particular HERS rater from being used in their jurisdiction or disallow HERS rater practices that the building official believes will result in compromising of HERS rater independence.

From Res ACM 7.9

Independent Entity means having no financial interest in, and not advocating or recommending the use of
any product or service as a means of gaining increased business with, firms or persons specified in Section
1673(i) of the California Home Energy Rating System Program regulations (California Code of Regulations,
Title 20, Division 2, Chapter 4, Article 8). **Financial Interest** means an ownership interest, debt agreement,
or employer/employee relationship. Financial interest does not include ownership of less than 5% of the outstanding equity securities of a publicly traded corporation.
NOTE: The definitions of "independent entity" and "financial interest," together with Section 1673(i), prohibit
conflicts of interest between providers and raters, or between providers/raters and builders/subcontractors.

Carol A. Davis
ATTORNEY AT LAW

April 23, 2008

William Staack, Senior Staff Counsel
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Dear Mr. Staack:

I am legal counsel to California Home Energy Efficiency Rating Services (CHEERS), and am writing to you at the request of its board of directors. CHEERS has received a formal complaint regarding a possible conflict of interest under the California Home Energy Rating System (HERS) Program. The complaint is basically the same one addressed in detail in the enclosed letter dated May 15, 2007 from you to David R. Bell, President of EnergySense.

CHEERS requests specific guidance from the California Energy Commission regarding this important matter. If a determination has been made that a conflict of interest does or does not exist, please so advise us. If a determination has not yet been made, please advise us when it will be made.

Thank you in advance for your written response.

Best personal regards,

Carol A. Davis
CHEERS Legal Counsel

cc: William Pennington, ERDA
Tav Commins, ERDA

3009 Palos Verdes Drive West, Palos Verdes Estates, CA 90274

(310) 541-7555
Fax (310) 541-5957

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov

April 28, 2008

Carol A. Davis
CHEERS Legal Counsel
3009 Palos Verde Drive West
Palos Verdes Estates, CA 90274

Re: **California Home Energy Rating System (HERS) Program Conflict of Interest**

Dear Ms. Davis:

The California Energy Commission (CEC) has received your letter, dated April 23, 2008, regarding a possible conflict of interest under the HERS Program. Mr. William Staack of my office has forwarded your letter to me for a response.

Sections 1670 through 1675 of the California Code of Regulations (CCR) contain the rules and regulations for the HERS Program. CCR Section 1675(b) states that any person or entity may file a complaint concerning any violation of the HERS Program regulations as provided for in Section 1230 et seq. of the CCR. Section 1231(b) of the CCR sets forth the required information that must accompany a complaint, or request for investigation, including a declaration under penalty of perjury attesting to the truth and accuracy of any factual allegations.

On March 18 of this year, via e-mail I advised Mr. Bill Lilly of California Living & Energy of the requirements for filing such a complaint or request for investigation. Mr. Lilly responded by e-mail the same day, stating that he would be filing the documentation no later than the next week. In an e-mail later that day, Mr. Lilly asked why he should have to file a complaint, when the regulations allegedly being violated were those of the CEC. In response, via e-mail on March 19, I told him the following:

> "Filing a complaint or request for investigation is the formal process by which violations of the CEC's regulations are dealt with. You are the one who brought the allegations of MASCO's violations to the CEC, and you have certain knowledge about the facts that the CEC does not (for example, you were the one who saw the MASCO paycheck given to the Energy Sense employee, not anyone at the CEC). As such, it appears that you are the person best situated to initiate a formal complaint or request for investigation."

In that same e-mail, I explained to Mr. Lilly part of the rationale behind the formal complaint process, as follows:

"By filing a complaint or request for investigation, all parties and the CEC will be required to comply with specific time frames that are set forth in the regulations, and thus the matter cannot be ignored or 'put on the back burner' by the parties, including MASCO, or the CEC. This will give you a measure of predictability about the process and the time it will take to come to a resolution."

Via e-mail that same day, Mr. Lilly thanked me for the above information, noting that, "I understand a lot more about the process and will proceed accordingly." This response, coupled with Mr. Lilly's initial e-mail of March 18, led me to believe that he would be filing a complaint or request for investigation pursuant to CCR Section 1230 et seq.

On April 8 of this year, I was one of several recipients of an e-mail from Dave Hegarty of DuctTesters regarding this matter. In that e-mail, Mr. Hegarty noted that "[a]n attempt to work with the Commission and Staff on these issues is in progress." This left me with the impression that filing a complaint or request for investigation per CCR Section 1230 et seq. was still contemplated.

As of this date, the CEC has not received a complaint or request for investigation under CCR Section 1230 et seq. from Mr. Lilly, Mr. Hegarty, or any other person or entity. As such, there has been no determination of any alleged conflict of interest.

If the California Home Energy Efficiency Rating Services (CHEERS) or any other person or entity wishes to file a formal complaint or request for investigation regarding this matter, they should do so pursuant to the provisions of CCR Section 1230 et seq. This is the process specifically identified by the HERS Program regulations. Utilizing this procedure will help to ensure that all parties are provided due process, and that those with first-hand knowledge of any facts that might establish a violation of the HERS Program regulations articulate those allegations at the outset of any proceedings.

Please note that I will be out of the office from May 1 to May 12. If you need further information before I return on the 12th, please contact Mr. Staack at this same address. Thank you.

Sincerely,

DENNIS L. BECK, JR.
Senior Staff Counsel
Phone: (916) 654-3974
dbeck@energy.state.ca.us

cc: Bill Pennington, MS-25
Tav Commins, MS-25
Jonathan Blees, MS-14
William Staack, MS-14

6. Documents concerning funds provided by Masco/Masco subsidiary/Masco-related entities for education/training for CHEERS raters

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

JAIME PADRON

_____

_____("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed prior CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s)

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached (attachment 3); all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached (attachment 4); all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education (attachment 6).

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual

or Proprietary Information, except to use them specifically in accordance with this Agreement.

"Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

C. HERS RATER may not do the following:

1. Make copies of the Manual.
2. Alter, remove or conceal any copyright or trademark notice on Manual.
3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty–eight (48) hours after completing the field verification and diagnostic testing. HERS Rater is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from rating customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference,

understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Signature	Signature
JAIME PACTRON Printed Name	Robert Scott Interim Executive Director
5/15/07 Date	MAY 24 2007 Date

CHEERS® EXISTING HOME RATER AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

EnergySense
Jaime Padron
~~1733 Morgan Road #250~~
~~Modesto, California, 95358~~ ("HERS RATER")

WHEREAS, HERS RATER has completed Existing Home Rater Training and passed the Existing Home Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed a current CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1.. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER may use the CHEERS RateTool Software Program ("Program"), the CHEERS Existing Home Rater Training Manual and RateTool Software Instructions ("Manual") and supporting Proprietary Information under the same terms and conditions as set forth in the CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT for the "Program" and "Manual" and "Proprietary Information."

3. All provisions of the CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT are hereby incorporated into this Agreement.

4. This Agreement supersedes all prior agreements between the parties regarding existing home ratings, sets forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

5. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER

Signature

Jaime Padron

Printed Name

6/11/08

Date

CHEERS

Robert A Scott

Signature

JUN 16 2008

Robert Scott
Executive Director

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

David T. Bair

_____

_____("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed prior CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s)

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached (attachment 3); all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached (attachment 4); all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education (attachment 6).

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual

or Proprietary Information, except to use them specifically in accordance with this Agreement.

"Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

C. HERS RATER may not do the following:

1. Make copies of the Manual.
2. Alter, remove or conceal any copyright or trademark notice on Manual.
3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty–eight (48) hours after completing the field verification and diagnostic testing. HERS Rater is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from rating customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference,

understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Signature	Signature
David T. Barr	Robert A. Scott
Printed Name	Executive Director
5/29/08	JUN 4 2008
Date	Date

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

COREY BERNHARDT

("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed prior CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s)

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached (attachment 3); all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached (attachment 4); all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education (attachment 6).

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual

or Proprietary Information, except to use them specifically in accordance with this Agreement.

"Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

C. HERS RATER may not do the following:

1. Make copies of the Manual.
2. Alter, remove or conceal any copyright or trademark notice on Manual.
3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty–eight (48) hours after completing the field verification and diagnostic testing. HERS Rater is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from rating customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference,

understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Signature	Signature
COREY BERNHARDT Printed Name	Robert Scott Interim Executive Director
1-23-07 Date	MAR 22 2007 Date

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

(ISRAEL CALLEROS) ("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed prior CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s)

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached (attachment 3); all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached (attachment 4); all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education (attachment 6).

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual

or Proprietary Information, except to use them specifically in accordance with this Agreement.

"Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

C. HERS RATER may not do the following:

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2. Alter, remove or conceal any copyright or trademark notice on Manual.
3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty–eight (48) hours after completing the field verification and diagnostic testing. HERS Rater is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from rating customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

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11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference,

understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Signature	Signature
ISRAEL CALLEROS Printed Name	Robert Scott Interim Executive Director
1-26-07 Date	MAR 13 2007 Date

New Construction Certification

This Certifies That

Israel Calleros

CCNIC188228

Has Successfully Completed and is Compliant with CHEERS® Requirements For

New Construction Verification and Diagnostic Testing

2004

California Home Energy Efficiency Rating System

A NON PROFIT ORGANIZATION
PROMOTING BETTER HOMES FOR A BETTER ENVIRONMENT

9400 Topanga Canyon Blvd., Suite 220
Chatsworth, CA 91311
(800) 4-CHEERS or (818) 407-1500
FAX: (818) 407-1188
www.cheers.org

California Home Energy Efficiency Rating System
Promoting Better Homes for a Better Environment
A Nonprofit Corporation

Tom Hamilton

Certified By
Tom Hamilton
Executive Director

Building Envelope Certification

This Certifies That

Israel Calleros

CCNIC188228

Has Successfully Completed and is Compliant with CHEERS® Requirements For

Building Envelope Module

Under the 2005 Building Energy Efficiency Standards

2005

California Home Energy Efficiency Rating Services

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C|H|E|E|R|S®

California Home Energy
Efficiency Rating Services
A NONPROFIT CORPORATION

Certified By
Tom Hamilton
Executive Director

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

MATTHEW JORDAN

("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed prior CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s)

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached (attachment 3); all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached (attachment 4); all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education (attachment 6).

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual

or Proprietary Information, except to use them specifically in accordance with this Agreement.

"Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

C. HERS RATER may not do the following:

1. Make copies of the Manual.
2. Alter, remove or conceal any copyright or trademark notice on Manual.
3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty–eight (48) hours after completing the field verification and diagnostic testing. HERS Rater is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from rating customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference,

understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Signature	Signature
MATTHEW O. JORDAN	
Printed Name	Robert Scott Interim Executive Director
2-2-07	MAR 22 2007
Date	Date

New Construction Certification

This Certifies That

Matthew Jordan

CCNMJ193610

Has Successfully Completed and is Compliant with CHEERS® Requirements For

New Construction Verification and Diagnostic Testing

2003

California Home Energy Efficiency Rating System

A NON PROFIT ORGANIZATION
PROMOTING BETTER HOMES FOR A BETTER ENVIRONMENT

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California Home Energy Efficiency Rating System
Promoting Better Homes for a Better Environment
A Nonprofit Corporation

Certified By
Tom Hamilton
Executive Director

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

Joshua D. Perez
CCNJP392868

_____("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed prior CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s)

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached (attachment 3); all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached (attachment 4); all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education (attachment 6).

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual

or Proprietary Information, except to use them specifically in accordance with this Agreement.

"Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

C. HERS RATER may not do the following:

1. Make copies of the Manual.
2. Alter, remove or conceal any copyright or trademark notice on Manual.
3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty–eight (48) hours after completing the field verification and diagnostic testing. HERS Rater is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from rating customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference,

understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Signature	Signature
Joshua D. Perez Printed Name	Robert Scott Interim Executive Director
1/25/07 Date	MAR 13 2007 Date

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

Timothy Williams

_____

_____("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed prior CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s)

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

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5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual

or Proprietary Information, except to use them specifically in accordance with this Agreement.

"Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

C. HERS RATER may not do the following:

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3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

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Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

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understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER

Signature

Timothy Williams
Printed Name

12/7/07
Date

CHEERS

Signature

Robert Scott
Interim Executive Director

DEC 7 2007
Date

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

MARK BOONE ("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed prior CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s)

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

w/ longer w/ new

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

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or Proprietary Information, except to use them specifically in accordance with this Agreement.

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B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

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1. Make copies of the Manual.
2. Alter, remove or conceal any copyright or trademark notice on Manual.
3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty–eight (48) hours after completing the field verification and diagnostic testing. HERS Rater is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from rating customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference,

understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER

Signature

MARK BOONE
Printed Name

3/12/07
Date

MASCO CONRACTOR SERVICES

CHEERS

Signature

Robert Scott
Interim Executive Director

APR 11 2007
Date

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

Cody Kinn

_____

_____("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached (attachment 3); all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached (attachment 4); all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education (attachment 6).

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual or Proprietary Information, except to use them specifically in accordance with this Agreement.

"Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

C. HERS RATER may not do the following:

1. Make copies of the Manual.
2. Alter, remove or conceal any copyright or trademark notice on Manual.
3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty–eight (48) hours after completing the field verification and diagnostic testing. HERS Rater is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from rating customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference, understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the

Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Signature	Signature
Cody Kidd	
Printed Name	Robert Scott Interim Executive Director
10/24/07	DEC 20 2007
Date	Date

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

_____

_____

Terry A. LeGate ("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed prior CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s)

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached (attachment 3); all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached (attachment 4); all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education (attachment 6).

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual

or Proprietary Information, except to use them specifically in accordance with this Agreement.

"Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

C. HERS RATER may not do the following:

1. Make copies of the Manual.
2. Alter, remove or conceal any copyright or trademark notice on Manual.
3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty–eight (48) hours after completing the field verification and diagnostic testing. HERS Rater is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from rating customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference,

understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Terry A. LeGate	Robert A Scott
Signature	Signature
TERRY A. LeGATE	
Printed Name	Robert Scott Interim Executive Director
12-21-2006	MAR 13 2007
Date	Date

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS") and:

Mike Smith ("HERS RATER").

WHEREAS, HERS RATER has submitted a Rater Application, a copy of which is incorporated herein by reference; and

WHEREAS, HERS RATER has completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the attached Rater Application and in the recitals set forth above is true and correct.

2. Within ten (10) days of full execution of this Agreement, HERS RATER shall execute the CHEERS Registry Enrollment which incorporates by reference the CHEERS Registry Agreement and CHEERS Fee Schedule. HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached; all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached; all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education.

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual or Proprietary Information, except to use them specifically in accordance with this Agreement.

      "Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

   B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

   C. HERS RATER may not do the following:

      1. Make copies of the Manual.

      2. Alter, remove or conceal any copyright or trademark notice on Manual.

      3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

   D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

   E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES

OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

G. To safeguard CHEERS' Proprietary Information and other business and marketing information, HERS RATER may not provide services to any other HERS Provider during the term of this Agreement.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty-eight (48) hours after completing the field verification and diagnostic testing. HERS RATER is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification or diagnostic testing, whether willful or not.

F. Two or more complaints from rating customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS.

H. Misrepresentation of HERS RATER's relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. Rater acknowledges that RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached and incorporated herein by reference, understands the Regulations and agrees to provide home energy rating and field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement sets forth the entire understanding of the parties with respect to the

subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Signature	Signature
Mike Smit	Tom Hamilton
Printed Name	Printed Name Tom Hamilton Executive Director
1-6-06	4-10-06
Date	Date

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

_____

_____

Randy Tay ("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed prior CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s)

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached (attachment 3); all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached (attachment 4); all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education (attachment 6).

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual

or Proprietary Information, except to use them specifically in accordance with this Agreement.

"Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

C. HERS RATER may not do the following:

1. Make copies of the Manual.
2. Alter, remove or conceal any copyright or trademark notice on Manual.
3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty–eight (48) hours after completing the field verification and diagnostic testing. HERS Rater is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from rating customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference,

understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Randy Toy	Robert A Scott
Signature	Signature
Randy Toy	
Printed Name	Robert Scott Interim Executive Director
1/24/07	MAR 13 2007
Date	Date

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS") and:

1/24/06

Marco a Vaca

_____ ("HERS RATER").

WHEREAS, HERS RATER has submitted a Rater Application, a copy of which is incorporated herein by reference; and

WHEREAS, HERS RATER has completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the attached Rater Application and in the recitals set forth above is true and correct.

2. Within ten (10) days of full execution of this Agreement, HERS RATER shall execute the CHEERS Registry Enrollment which incorporates by reference the CHEERS Registry Agreement and CHEERS Fee Schedule. HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached; all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached; all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education.

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual or Proprietary Information, except to use them specifically in accordance with this Agreement.

      "Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

   B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

   C. HERS RATER may not do the following:

      1. Make copies of the Manual.

      2. Alter, remove or conceal any copyright or trademark notice on Manual.

      3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

   D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

   E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES

OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

G. To safeguard CHEERS' Proprietary Information and other business and marketing information, HERS RATER may not provide services to any other HERS Provider during the term of this Agreement.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty-eight (48) hours after completing the field verification and diagnostic testing. HERS RATER is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification or diagnostic testing, whether willful or not.

F. Two or more complaints from rating customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS.

H. Misrepresentation of HERS RATER's relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. Rater acknowledges that RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached and incorporated herein by reference, understands the Regulations and agrees to provide home energy rating and field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement sets forth the entire understanding of the parties with respect to the

subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Marco A Vaca	Tom Hamilton
Signature	Signature
MARCO A VACA	Tom Hamilton
Printed Name	Printed Name Tom Hamilton Executive Director
1-19-06	2/13/06
Date	Date

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER RENEWAL AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS®") and:

Brandon Wood

_____

_____("HERS RATER")

WHEREAS, HERS RATER has submitted a Rater Application, completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test; and

WHEREAS, HERS RATER and CHEERS have executed prior CHEERS TITLE 24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s)

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the recital set forth above is true and correct.

2. HERS RATER shall comply with the attached CHEERS Registry Agreement (attachment 1) and CHEERS Fee Schedule (attachment 2). HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached (attachment 3); all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached (attachment 4); all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education (attachment 6).

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual

or Proprietary Information, except to use them specifically in accordance with this Agreement.

"Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

C. HERS RATER may not do the following:

1. Make copies of the Manual.
2. Alter, remove or conceal any copyright or trademark notice on Manual.
3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty–eight (48) hours after completing the field verification and diagnostic testing. HERS Rater is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from rating customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification, diagnostic testing or data entry, whether willful or not.

F. Two or more complaints from ratings customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS

H. Misrepresentation of HERS RATER' relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents, and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. HERS RATER acknowledges that HERS RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached (attachment 5) and incorporated herein by reference,

understands the Regulations and agrees to provide home energy rating, field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement and all attachments which are incorporated herein by reference cancel and supersede all prior CHEERS TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT(s) between the parties, set forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Signature	Signature
Brandon Wood	
Printed Name	Robert Scott Interim Executive Director
1/24/07	MAR 13 2007
Date	Date

CHEERS

April 10, 2006

RE: CHEERS® CORE Rater Certification Training

Brandon Wood
CCN56515143
Masco / Coast Bldg. Prdcts.
1920 Mark Court, Suite 100
Concord, CA 94520

Dear Brandon Wood,

Congratulations on passing the CHEERS CORE Rater Certification Training. Enclosed you will find your Rater Certificate and ID Badge with your certification number along with a signed copy of your Rater Agreement. Now that you are a Certified CHEERS Rater, you have been granted access to the CHEERS Registry. Please visit the website at www.cheers.org and click on "Go to the Registry". Enter your Login and Password.

Login: bw3281

Password: 702265

Once you log onto the CHEERS Registry, you may change your login and password by clicking on My Account and selecting Modify My Login.

Also, available in the Support section of the registry is the Registry User Guide. This downloadable PDF file will walk you through the steps of entering data into the registry. If you have any questions there after, please contact Dawn Carton, Operations Manager, for assistance at (818) 407-1500 ext. 104.

Once again, congratulations and we look forward to working with you as a Certified CHEERS Rater.

Cordially,

Delilah Levy
Office Manager
CHEERS

California **Home Energy Efficiency Rating Services** A Non-Profit Corporation
9420 Topanga Canyon Blvd. | Suite 220 | Chatsworth, California 91311
P 800.[illegible] 8777 | 818.407.1500 | F 818.407.1188 | W www.cheers.org

CORE Rater Certification

This Certifies That

Brandon Wood

CCN56515143

Has Successfully Completed and is Compliant with CHEERS® Requirements For

Verification and Diagnostic Testing

2006

California Home Energy Efficiency Rating Services

A NON PROFIT ORGANIZATION
PROMOTING BETTER HOMES FOR A BETTER ENVIRONMENT

9400 Topanga Canyon Blvd., Suite 220
Chatsworth, CA 91311
(800) 4-CHEERS or (818) 407-1500
FAX: (818) 407-1188
www.cheers.org

C|H|E|E|R|S®

California Home Energy
Efficiency Rating Services
A NONPROFIT CORPORATION

Certified By
Tom Hamilton
Executive Director

Not in Admin

CHEERS® TITLE-24/RESIDENTIAL NEW CONSTRUCTION RATER AGREEMENT

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS") and:

Clay Darr
Sacramento Building Products
857 Levin Tulare CA 93274 ("HERS RATER").

WHEREAS, HERS RATER has submitted a Rater Application, a copy of which is incorporated herein by reference; and

WHEREAS, HERS RATER has completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the attached Rater Application and in the recitals set forth above is true and correct.

2. Within ten (10) days of full execution of this Agreement, HERS RATER shall execute the CHEERS Registry Enrollment which incorporates by reference the CHEERS Registry Agreement and CHEERS Fee Schedule. HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached; all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached; all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education.

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual or Proprietary Information, except to use them specifically in accordance with this Agreement.

      "Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

   B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

   C. HERS RATER may not do the following:

      1. Make copies of the Manual.

      2. Alter, remove or conceal any copyright or trademark notice on Manual.

      3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

   D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

   E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES

OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

G. To safeguard CHEERS' Proprietary Information and other business and marketing information, HERS RATER may not provide services to any other HERS Provider during the term of this Agreement.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty-eight (48) hours after completing the field verification and diagnostic testing. HERS RATER is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification or diagnostic testing, whether willful or not.

F. Two or more complaints from rating customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS.

H. Misrepresentation of HERS RATER's relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. Rater acknowledges that RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached and incorporated herein by reference, understands the Regulations and agrees to provide home energy rating and field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement sets forth the entire understanding of the parties with respect to the

subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Clay Darr	Clay Darr Tom
Signature	Signature
Clay Darr	Clay Darr Tom Hamilton
Printed Name	Printed Name
8-11-05	8-11-05 9/19/05
Date	Date

August 9, 2005

RE: **CORE RATER CERTIFICATION TRAINING CLASS**
PACIFIC GAS & ELECTRIC – STOCKTON TRAINING CENTER
CONFIRMATION FOR 8/23, 8/24 and 8/25/2005

Dear Clay Darr,

I am pleased to confirm your enrollment in the upcoming *CHEERS* CORE RATER CERTIFICATION TRAINING CLASS scheduled from August 23, 2005 to August 25, 2005. This class is being held at the Pacific Gas & Electric Training Center, 1129 Enterprise Street, Stockton, CA 95204. Phone: (209) 932-2512. The class runs from 8:30 a.m. to 5:00 p.m. on all three days.

A course outline and other related material will be handed out in class.

In the meantime, if you have any questions or require additional information please contact myself at (800) 424-3377.

Thank you and we look forward to working with you as a *CHEERS CERTIFIED* RATER.

If you need hotel accommodations, CHEER'S receives a discounted rate from The Radisson Hotel Stockton. Please take advantage of this offer no later than August 8, 2005. While making reservations, please mention that you will be attending a CHEERS training. The number to call is (209) 957-9090.

CCNCD356782
Login: 28552
Password: 433724

Sincerely,

Delilah Levy
Office Manager
CHEERS

Cancellations, Transfers, & Refunds

If you cannot attend a course for which you are registered, contact us at least three business days before the scheduled class date to cancel and allow others to enroll. If requesting a refund a service charge of $ 50.00 will be deducted from the fee. Should you call in on the day of the class, you can reschedule to a class at a later date, a $50.00 fee will be charged. All "no shows" will lose their money.

C|H|E|E|R|S

September 12, 2005

RE: CHEERS CORE Rater Certification Training

Clay Darr
Sacramento Building Products
857 E. Levin
Tulare, CA 93274

Dear Clay Darr,

Congratulations on passing the CHEERS CORE Rater Certification Training. Enclosed you will find your Rater Certificate and ID Badge with your certification number along with a signed copy of your Rater Agreement. Now that you are a Certified CHEERS Rater, you have been granted access to the CHEERS Registry. Please visit the website at www.cheers.org and click on the Command Center. Enter your Login and Password.

Login: 2852

Password: 433724

Once you log onto the CHEERS Registry, you may change your login and password by clicking on My Account and selecting Modify My Login.

Also, available in the Support section of the registry is the Registry User Guide. This downloadable PDF file will walk you through the steps of entering data into the registry. If you have any questions there after, please contact Dawn Carton, Operations Manager, for assistance at (818) 407-1500 ext. 104.

Once again, congratulations and we look forward to working with you as a Certified CHEERS Rater.

Cordially,

Delilah Levy

Delilah Levy
Office Manager
CHEERS

California Home Energy Efficiency Rating Services A Non-Profit Corporation
9400 Topanga Canyon Blvd. | Suite 220 | Chatsworth, California 91311
P 800.424.3377 818.407.1500 | F 818.407.1188 | W www.cheers.org

CORE Rater Certification

This Certifies That

Clay Darr

CCNCD356782

Has Successfully Completed and is Compliant with CHEERS® Requirements For

Verification and Diagnostic Testing

2005

California Home Energy Efficiency Rating Services

A NON PROFIT ORGANIZATION
PROMOTING BETTER HOMES FOR A BETTER ENVIRONMENT

9400 Topanga Canyon Blvd., Suite 220
Chatsworth, CA 91311
(800) 4-CHEERS or (818) 407-1500
FAX: (818) 407-1188
www.cheers.org

C|H|E|E|R|S®

California Home Energy
Efficiency Rating Services
A NONPROFIT CORPORATION

Certified By
Tom Hamilton
Executive Director

3/01

CHEERS [redacted] **[redacted] RATER [redacted]**

THIS AGREEMENT, effective as of the date of last signature below, is by and between CALIFORNIA HOME ENERGY EFFICIENCY RATING SERVICES ("CHEERS") and:

Shaun O'Dell

_____ ("HERS RATER").

WHEREAS, HERS RATER has submitted a Rater Application, a copy of which is incorporated herein by reference; and

WHEREAS, HERS RATER has completed Title-24/Residential New Construction Rater Training and passed the Title-24/Residential New Construction Rater Certification Test;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, CHEERS and HERS RATER agree as follows:

1. HERS RATER warrants that the information set forth in the attached Rater Application and in the recitals set forth above is true and correct.

2. Within ten (10) days of full execution of this Agreement, HERS RATER shall execute the CHEERS Registry Enrollment which incorporates by reference the CHEERS Registry Agreement and CHEERS Fee Schedule. HERS RATER shall abide by the terms and conditions of the CHEERS Registry Agreement and pay all amounts due CHEERS in accordance with the CHEERS Fee Schedule. The term of this Agreement shall co-exist with the term of the CHEERS Registry Enrollment.

3. HERS RATER shall comply with all CHEERS Policies. All current Policies are attached; all new and revised Policies shall be sent to HERS RATER.

4. HERS RATER shall comply with all CHEERS performance and quality assurance procedures ("Procedures"). All current Procedures are attached; all new and revised Procedures shall be sent to HERS RATER. Quality Assurance includes field quality assurance, Registry quality assurance and consumer quality assurance, as well as continuing education.

5. HERS RATER shall comply with all applicable federal, state and local laws and regulations.

F. Two or more complaints from rating customers or potential customers.

G. Failure to promptly pay any amounts due CHEERS.

H. Misrepresentation of HERS RATER's relationship with CHEERS.

I. Any act or failure to act which, in CHEERS' opinion, harms its name or reputation.

This Agreement shall automatically terminate upon the occurrence of any of the following events: HERS RATER or HERS RATER's business is adjudged bankrupt, placed in the hands of a receiver, makes an assignment for the benefit of creditors, takes the benefit of any insolvency act, or is liquidated or dissolved.

HERS RATER shall return to CHEERS all material received from CHEERS within ten (10) days of the date of the first to occur of any of the above-described events or any termination notice.

12. HERS RATER shall act hereunder solely as an independent contractor. HERS RATER shall not represent himself/herself to be an employee or agent of CHEERS. HERS RATER may, of course, indicate that HERS RATER is a CHEERS CERTIFIED HERS RATER.

13. HERS RATER shall indemnify and hold harmless CHEERS, its officers, directors, agents and employees from and against all claims of all kinds arising from or in connection with performance of ratings or any other services for rating customers, including all expenses, costs, settlements, judgments, awards, and legal fees incurred by CHEERS in defense or settlement of such claims.

14. HERS RATER shall maintain appropriate insurance coverage in appropriate amounts to cover its performance hereunder.

15. This Agreement may not be assigned by HERS RATER.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. Rater acknowledges that RATER has read California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1675 ("Regulations"), a copy of which is attached and incorporated herein by reference, understands the Regulations and agrees to provide home energy rating and field verification services and diagnostic testing services in compliance with the Regulations. HERS RATER agrees to comply with the conflict of interest requirements as specified in Section 1673(i) of the Regulations.

18. This Agreement sets forth the entire understanding of the parties with respect to the

OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE MANUAL.

F. To the maximum extent permitted by applicable law, in no event shall CHEERS be liable for any damages whatsoever (including, without limitation, damages for loss of profits, loss of business information, business interruption, good will or any other financial loss) arising out of the use of or inability to use the Manual, even if CHEERS has been advised of the possibility of such damages.

G. To safeguard CHEERS' Proprietary Information and other business and marketing information, HERS RATER may not provide services to any other HERS Provider during the term of this Agreement.

8. HERS RATER shall transmit all data to CHEERS via the CHEERS Registry within forty-eight (48) hours after completing the field verification and diagnostic testing. HERS RATER is responsible and liable for all data transmitted hereunder.

9. HERS RATER shall keep confidential all ratings, field verifications and diagnostic testing results and all information gathered from customers except for transmission to CHEERS. All confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

10. HERS RATER may not rate or perform a field verification or diagnostic test on any home in which HERS RATER has any financial interest.

11. Upon written notice to CHEERS, HERS RATER may terminate this Agreement at any time.

Upon written notice to HERS RATER, CHEERS may terminate this Agreement upon the occurrence of any of the following events:

A. Failure of HERS RATER to comply with any of the terms and conditions of this Agreement or any other agreement between HERS RATER and CHEERS.

B. Conviction of a felony.

C. Disciplinary action by the Contractors State License Board or any like authority.

D. Willful failure to provide a true, accurate and complete rating, field verification or diagnostic testing.

E. Pattern of failure to provide a true, accurate and complete rating, field verification or diagnostic testing, whether willful or not.

6. HERS RATER shall complete all required field verification and diagnostic testing; these activities may not be performed by anyone else. HERS RATER agrees to provide true, accurate and complete ratings, field verification and diagnostic testing.

7. HERS RATER may use the CHEERS Title-24/New Construction Training Manual ("Manual") and supporting Proprietary Information under the following terms and conditions:

   A. HERS RATER agrees that the Manual and Proprietary Information are owned exclusively by CHEERS, and are protected by the copyright laws of the United States. HERS RATER agrees that HERS RATER obtains no rights in the Manual or Proprietary Information, except to use them specifically in accordance with this Agreement.

      "Proprietary Information" shall mean CHEERS confidential information, trade secrets and know-how embodied in the Manual and not generally known or available to the public, including, but not limited to, data communication processes and systems design.

   B. The Manual and Proprietary Information may only be used by CHEERS certified raters ("HERS RATERS") who shall keep strictly confidential the Manual and Proprietary Information, and acknowledge that the Manual and Proprietary Information constitute valuable property and work product of CHEERS, that any breach of the confidentiality obligations hereunder may cause CHEERS irreparable harm and damage, and that all confidentiality obligations hereunder shall survive any expiration or termination of this Agreement.

   C. HERS RATER may not do the following:

      1. Make copies of the Manual.

      2. Alter, remove or conceal any copyright or trademark notice on Manual.

      3. Assign or transfer any rights to use the Manual or Proprietary Information except as set forth in this Agreement.

   D. CHEERS shall have the right, without prior approval from or notice to HERS RATER, to make changes, updates, modifications or enhancements to any of its work product, and such changes, updates, modifications and enhancements shall remain the property of CHEERS.

   E. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHEERS DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES

subject matter hereof, and shall not be amended, modified or waived except in a writing signed by both parties.

19. HERS RATER acknowledges that HERS RATER has read this Agreement, understands it and agrees to be bound by its terms and conditions.

HERS RATER	CHEERS
Signature	Signature Tom Hamilton
Shaun O'Dell	Shaun O'Dell
Printed Name	Printed Name
02/24/06	02/24/06 3/20/06
Date	Date

Invoice

DATE	INVOICE #
5/18/2005	2005-854

CHEERS

BILL TO
Masco Contractor Services 1733 Morgan Road #250 Modesto, CA 95358

Attn: Tammy Valencia
FAX: (916) 440-8704

CHEERS
9400 Topanga Canyon Blvd
#220
Chatsworth, CA 91311

QTY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
2	Registration Fee...	Recertification Training Module - 6/14/05 in Stockton for Jaime Padron & Matthew Jordan	100.00	200.00
2	Registration Fee...	HVAC Training Module - 8/25 - 8/26/05 in Stockton for Jaime Padron & Matthew Jordan HVAC class is 2 days with aditional charge of $50.00 per person	150.00	300.00
2	Registration Fee...	Building Envelope Training Module - 9/14/05 in Stockton for Jaime Padron & Matthew Jordan	100.00	200.00
		REVISED INVOICE PAID 5/31/05 $600.00 CK # 12026112 BALANCE DUE $ 100.00		

Thank You.

Total $700.00

Balance Due $100.00

Customer Total Balance $15,666.00

Invoice

DATE	INVOICE #
7/19/2005	2005-1123

BILL TO
Sacramento Building Products Kristina Franquez 500 Sequoia Pacific Blvd. Sacramento, CA 95814

CHEERS

9400 Topanga Canyon Blvd
#220
Chatsworth, CA 91311

QTY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1	Registration Fee...	Core Certification Training Module 9/26-9/28/05 3 Days Lathrop Timothy Williams	700.00	700.00
1	Registration Fee...	Core Certification Training Module 9/26-9/28/05 3 Days Lathrop Josh Perez	700.00	700.00

Thank You.

Total $1,400.00

Invoice

DATE	INVOICE #
7/19/2005	2005-1124

CHEERS
California Home Energy Efficiency Rating Services

BILL TO
Masco Contractor Services Jaime Padron PO Box 9651 Fresno, CA 93793-9651

CHEERS

9400 Topanga Canyon
Blvd #220
Chatsworth, CA 91311

QTY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1	Registration Fee...	Core Certification Training Module 8/23-8/25/05 3 Days Stockton Clay Darr	700.00	700.00
1	Registration Fee...	Core Certification Training Module 8/23-8/25/05 3 Days Stockton Mark Boone	700.00	700.00

Thank You.

Total $1,400.00

Balance Due $1,400.00

Customer Total Balance $1,400.00

Invoice

DATE	INVOICE #
5/25/2005	2005-889

BILL TO
Masco Contractor Services Hampton Renaissance Project PO Box 9651 Fresno, CA 93793-9651

CHEERS

9400 Topanga Canyon Blvd
#220
Chatsworth, CA 91311

QTY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1	Registration Fee...	Recertification Training Module For: Israel Calleros 6/29/2005	100.00	100.00
1	Registration Fee...	HVAC Training Module For: Israel Calleros 8/25 - 8/26/2005 (2) days	150.00	150.00
1	Registration Fee...	Building Envelope Training Module For Israel Calleros 9/19/05 HVAC class has been revised to a 2 day class with the additional charged of $50.00	100.00	100.00

Total	$350.00

Invoice

DATE	INVOICE #
1/2/2006	2006-1614

BILL TO
Sacramento Building Products Kristina Franquez 500 Sequoia Pacific Blvd. Sacramento, CA 95814

CHEERS

9400 Topanga Canyon Blvd
#220
Chatsworth, CA 91311

QTY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1	Registration Fee...	Core Certification Training Module 1/10-1/12/06 3 Days Lathrop Corey Bernhardt	700.00	700.00

Thank You.

Total $700.00

Invoice

DATE	INVOICE #
1/2/2006	2005-1615

BILL TO
Sacramento Building Products 857 Levin Ave. Tulare, CA 93274

CHEERS

9400 Topanga Canyon Blvd
#220
Chatsworth, CA 91311

QTY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1	Registration Fee...	Core Certification Training Module 1/24-1/26/06 3 Days Downey Marco Vacca	700.00	700.00

Thank You.

Total $700.00

Invoice

DATE	INVOICE #
1/2/2006	2006-1617

BILL TO
Coast Building Products 1920 Mark Court, Suite 100 Concord, CA 94520

CHEERS

9400 Topanga Canyon Blvd
#220
Chatsworth, CA 91311

QTY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1	Registration Fee...	Core Certification Training Module 1/10-1/12/06 3 Days Lathrop Mike Smit ********** CORRECTED INVOICE********** 1/9/06 Transferred back into the 1/10/06 class in Lathrop	700.00	700.00

Thank You.

Total $700.00

Invoice

DATE	INVOICE #
1/2/2006	2006-1683

BILL TO
Coast Building Products 1920 Mark Court, Suite 100 Concord, CA 94520

CHEERS

9400 Topanga Canyon Blvd
#220
Chatsworth, CA 91311

QTY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1	Registration Fee...	Core Certification Training Module 1/10-1/12/06 3 Days Lathrop Brandon Wood	700.00	700.00

Thank You.

Total $700.00

Invoice

DATE	INVOICE #
2/15/2006	2006-1855

BILL TO
Sacramento Building Products 857 Levin Ave. Tulare, CA 93274

CHEERS

9400 Topanga Canyon Blvd
#220
Chatsworth, CA 91311

QTY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1	Registration Fee...	Core Certification Training Module 3/01-3/03/06 3 Days Downey Shaun O'Dell	700.00	700.00

Deadline for payment for this class is 02/23/06

Total $700.00

Invoice

DATE	INVOICE #
3/28/2006	2006-2100

BILL TO
Coast Building Products(SAN JOSE)MASCO 1341 Old Oakland Road San Jose, CA 95112

CHEERS

9400 Topanga Canyon Blvd
#220
Chatsworth, CA 91311

QTY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1	Registration Fee...	Core Certification Training Module 4/11-4/13/06 3 Days Lathrop Terry Legate	700.00	700.00

Thank You.

Total $700.00

Invoice

DATE	INVOICE #
9/15/2006	2006-8094

BILL TO
Sacramento Building Products Kristina Franquez 500 Sequoia Pacific Blvd. Sacramento, CA 95814

CHEERS

9400 Topanga Canyon Blvd
#220
Chatsworth, CA 91311

QTY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1	Registration Fee...	HVAC Training Module Corey Bernhardt	150.00	150.00

Thank You.

Total $150.00

C|H|E|E|R|S

Invoice

9400 Topanga Canyon, Suite 220
Chatsworth, California 91311
Phone: 800-424-3377 x2
Fax: 866-505-8618
E-mail: dcarton@cheers.org

Invoice no: 2007-1809
Invoice date: 6/1/2007
Due date: 6/1/2007

To:

EnergySense
500 Sequoia Pacific Blvd.
Sacramento, California 95814

Sales Person		**Contact name**	Arika Johnson
Delivery date		**Payment terms**	Due on receipt

Qty.	Item	Description	Unit Price	Discount	Line Total
7	Registration Fee - HVAC Training	8/16-17/2006 - Brandon Wood, Randy Toy, Mike Smit, David Short, Israel Calleros, Mark Boone, Timothy Williams	$150.00		$1,050.00
6	Registration Fee - Building Env Training	8/15/2006 - Mark Boone, David Short, Mike Smit, Brando Wood, Timothy Williams, Randy Toy	$100.00		$600.00
1	Registration Fee - Building Env Training	8/29/2006 - Marco Vaca	$100.00		$100.00
		Per David Short and Keith Telligman - they were never invoiced for these folks to attend training			

Subtotal	$1,750.00
Sales tax	$0.00
Total	$1,750.00

INVOICE

C|H|E|E|R|S
9400 Topanga Canyon, Suite 220
Chatsworth, California 91311

C|H|E|E|R|S

EnergySense
Arika Johnson
500 Sequoia Pacific Blvd.
Sacramento, California 95814

Date: August 8, 2007
Invoice # 2007-2064

Name	Description	Qty.	Unit Price		Line Total
Registration Fee - Solar	Joshua Perez - 8/1-2/07	1	$250.00		$250.00
Registration Fee - Building Env Training	Joshua Perez - 7/25/07	1	$100.00		$100.00
[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
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[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]				
[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]		[redacted]

CHEERS

20422 Beach Blvd Suite 235
Huntington Beach, CA 92648
US
Phone: 7145004440
Fax: 8665058618
E-mail: lseers@cheers.org

Cash Sale

Cash Sale No: 2008-1058
Cash Sale date: 4/15/2008
Reference: 2008-1058

To:

EnergySense
1441 Coldwell Ave., Suite D
Modesto, California 95350

Sales Person		**Contact name**	Donna Wilson
Delivery date		**Payment method**	Check

Qty.	Item	Description	Unit Price	Discount	Line Total
5	Registration Fee - Solar	Corey Bernhardt, Israel Calleros, Matthew Jordan, Jaime Padron, Tim Williams - April 4-11, 2008	$300.00		$1,500.00

Subtotal $1,500.00
Sales tax $0.00
Total $1,500.00

INVOICE

CHEERS
20422 Beach Blvd Suite 235
Huntington Beach, CA 92648

CHEERS

Date: April 21, 2008
Invoice # **2008-1203**
Invoice Date: 4/21/2008

EnergySense
Jaime Padron
1441 Coldwell Ave., Suite D
Modesto, California 95350

Name	Description	Qty	Unit Price	Line Total
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Registration Fee - HVAC Training	Joshua Perez - November 14-15, 2007	1	$150.00	$150.00
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
	JANUARY 1-31, 2008			
			Subtotal	[redacted]
			Total	[redacted]

All invoices are due upon receipt.

Please make all checks payable to:
CHEERS
20422 Beach Blvd Suite 235
Huntington Beach, CA 92648
7145004440|P 7145004459|F dcarton@cheers.org

To pay by credit card, simply circle the appropriate card type then fill in the information below and return to CHEERS.

INVOICE

CHEERS
20422 Beach Blvd Suite 235
Huntington Beach, CA 92648

C|H|E|E|R|S®

Date: April 24, 2008
Invoice # **2008-1293**
Invoice Date: 4/24/2008

EnergySense
Jaime Padron
1441 Coldwell Ave., Suite D
Modesto, California 95350

Name	Description	Qty	Unit Price	Line Total
Registration Fee - Existing Home Training	Jaime Padron - May 6-9, 2008	1	$800.00	$800.00
			Subtotal	$800.00
			Total	**$800.00**

All invoices are due upon receipt.

Please make all checks payable to:
CHEERS
20422 Beach Blvd Suite 235
Huntington Beach, CA 92648
7145004440|P 7145004459|F dcarton@cheers.org

To pay by credit card, simply circle the appropriate card type then fill in the information below and return to CHEERS.

PayPal

VISA AMEX DISCOVER eCHECK

Card Number **Expiration Date** **Card Security Code***

Please print name as it appears on the card

Signature **$ Authorized Amount**

*Card Security Code - final 3 digit number on back of card. If using AMEX, it is a 4-digit number on the front of the card

Thank you for your business!

CHEERS

20422 Beach Blvd Suite 235
Huntington Beach, CA 92648
US
Phone: 7145004440
Fax: 8665058618
E-mail: lseers@cheers.org

Cash Sale

Cash Sale No: 2008-1566
Cash Sale date: 4/30/2008
Reference: 2008-1566

To:

EnergySense
1441 Coldwell Ave., Suite D
Modesto, California 95350

Sales Person		**Contact name**	Jaime Padron
Delivery date		**Payment method**	Check

Qty.	Item	Description	Unit Price	Discount	Line Total
1	Registration Fee - CORE Training	David Baer - June 3-5, 2008	$600.00		$600.00

Subtotal $600.00
Sales tax $0.00
Total $600.00

CHEERS

20422 Beach Blvd Suite 235
Huntington Beach, CA 92648
US
Phone: 7145004440
Fax: 8665058618
E-mail: lseers@cheers.org

Cash Sale

Cash Sale No: 2008-1058
Cash Sale date: 4/15/2008
Reference: 2008-1058

To:

EnergySense
1441 Coldwell Ave., Suite D
Modesto, California 95350

Sales Person		**Contact name**	Donna Wilson
Delivery date		**Payment method**	Check

Qty.	Item	Description	Unit Price	Discount	Line Total
5	Registration Fee - Solar	Corey Bernhardt, Israel Calleros, Matthew Jordan, Jaime Padron, Tim Williams - April 4-11, 2008	$300.00		$1,500.00

Subtotal $1,500.00
Sales tax $0.00
Total $1,500.00

CHEERS

20422 Beach Blvd Suite 235
Huntington Beach, CA 92648
US
Phone: 7145004440
Fax: 8665058618
E-mail: lseers@cheers.org

Cash Sale

Cash Sale No: 2008-2805
Cash Sale date: 1/20/2009
Reference: MasterCard 1016 Appr Code 9SS884

To:

EnergySense
1441 Coldwell Ave., Suite D
Modesto, California 95350

Sales Person		**Contact name**	Jaime Padron
Delivery date		**Payment method**	Online Credit Card

Qty.	Item	Description	Unit Price	Discount	Line Total
1	Registration Fee - Federal Tax Credit Training	Jaime Padron - January 21, 2009	$50.00		$50.00

Subtotal $50.00
Sales tax $0.00
Total $50.00

INVOICE

CHEERS
20422 Beach Blvd Suite 235
Huntington Beach, CA 92648

Date: January 22, 2009
Invoice # **2007-1737**
Invoice Date: 5/8/2007

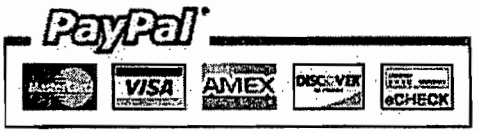
EnergySense
Arika Johnson
500 Sequoia Pacific Blvd.
Sacramento, California 95814

Name	Description	Qty	Unit Price	Line Total
Registration Fee - Building Env Training	Terry Legate - May 8, 2007	1	$100.00	$100.00
			Subtotal	$100.00
			Total	**$100.00**

All invoices are due upon receipt.

Please make all checks payable to:
CHEERS
20422 Beach Blvd Suite 235
Huntington Beach, CA 92648
7145004440|P 8665058618|F lseers@cheers.org

To pay by credit card, simply circle the appropriate card type then fill in the information below and return to CHEERS.



Card Number **Expiration Date** **Card Security Code***

Please print name as it appears on the card

Signature **$ Authorized Amount**

*Card Security Code - final 3 digit number on back of card. If using AMEX, it is a 4-digit number on the front of the card

Thank you for your business!

INVOICE

CHEERS
20422 Beach Blvd Suite 235
Huntington Beach, CA 92648

CHEERS

Date: January 22, 2009
Invoice # **2007-2301**
Invoice Date: 9/30/2007

EnergySense
Donna Wilson
1441 Coldwell Ave., Suite D
Modesto, California 95350

Name	Description	Qty	Unit Price	Line Total
Registration Fee - CORE Training	Core Certification Training Module - Cody Kidd - October 2-4, 2007	1	$700.00	$700.00
Registry Subscription Fee	Code Kidd - 2007 partial 2 months	1	$20.00	$20.00
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
	[redacted]			
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
	SEPTEMBER 1-30, 2007			
			Subtotal	[redacted]
			Total	[redacted]

All invoices are due upon receipt.

.C.

Check Total $500.00 | Check No. 30001087 | Check Date Mar 12, 2002

	INVOICE DATE	VOUCHER NO.	CUSTOMER INVOICE NO.	GROSS AMOUNT	DISCOUNT	NET AMOUNT	DESCRIPTION
1	02/27/2002	49146272	020227CK	500.00	0.00	500.00	SACRAMENTO INSULATION
				500.00	0.00	500.00	

Please Detach Before Presenting for Payment

THE FACE OF THIS DOCUMENT IS PRINTED BLUE - THE BACK CONTAINS A SIMULATED WATERMARK

MASCO CSW, INC.
12937 POMERADO ROAD
POWAY CA 92064
(858) 748-7263 x116

Comerica Bank & Trust N.A.
Detroit, MI

74-478
724

Check No.
30001087
Mar 12, 2002

PAY *** $500 00 CTS CTS
FIVE ZERO ZERO

$500.00

MASCO CSW, INC.

To The Order Of
CHEERS RATING SYSTEMS INC
9400 OAKDALE AVE
CHATSWORTH CA UNITED STATES
91311

PER
PER

MP

⑈ [redacted] ⑈

RECEIVED
4
CHEERS

THIS CHECK HAS A VOID PANTOGRAPH, 2 MICROPRINTED SIGNATURE LINES, MICROPRINTED BORDERS & TRUE WATERMARK

MASCO CONTRACTOR SERVICES WEST, INC.
(386) 304-2217
2339 Beville Road
Daytona Beach, Florida 32119

COMERICA BANK & TRUST
Detroit, MI

74-478
724

Check No.
12002141
Oct 10, 2003

VOID VOID VOID VOID VOID VOID

PAY ***Five Hundred Dollars And 00 Cents

*****$500.00**

MASCO CONTRACTOR SERVICES WEST, INC.
TWO SIGNATURES REQUIRED OVER $5,000.00

To The Order Of

CHEERS
9400 TOPANGA CANYON BLVD, #220
CHATSWORTH CA
91311

Chief Financial Officer

VP Finance

ENROLMENT FEE FOR MATTHEW O. JORDAN

SAFEGUARD SECURITY

EXPLANATION OF ADDITIONAL SECURITY FEATURES INDICATED ON REVERSE SIDE

MASCO CONTRACTOR SERVICES WEST, INC.

Vendor:	Short Name	Vendor No.	Check Total	Check No.	12006126
SHEERS	SHEER	50057719	$500.00	Check Date	Feb 18, 2004

SEQUENCE NUMBER	INVOICE DATE	INVOICE NUMBER	GROSS AMOUNT	DISCOUNT	NET AMOUNT	DESCRIPTION
	02/04/2004	215040204CK	500.00	0.00	500.00	215A REGISTRATION FOR ENERGY STAR
			500.00	0.00	500.00	

THIS CHECK HAS A VOID PANTOGRAPH, 2 MICROPRINTED SIGNATURE LINES, MICROPRINTED BORDERS & TRUE WATERMARK

MASCO CONTRACTOR SERVICES WEST, INC.
(386) 304-2217
2339 Beville Road
Daytona Beach, Florida 32119

COMERICA BANK &TRUST
Detroit, MI

74-478
724

Check No.
12006126
Feb 18, 2004

PAY ***Five Hundred Dollars And 00 Cents

*****$500.00**

MASCO CONTRACTOR SERVICES WEST, INC.
TWO SIGNATURES REQUIRED OVER $5,000.00

Dale Lamang

To The Order Of
SHEERS
9400 TOPANGA CANYON BLVD.
CHARTSWORTH CA
91311

VOID VOID VOID VOID VOID VOID

EXPLANATION OF ADDITIONAL SECURITY FEATURES INDICATED ON REVERSE SIDE

Vendor:	Short Name	Vendor No.	Check Total	Check No.	12029466
CALIFORNIA HOME ENERGY EFFICIENT RATING SERVICES	CALGRSERVICES	50048258	$1,400.00	Check Date	Aug 04, 2005

SEQUENCE NUMBER	INVOICE DATE	INVOICE NUMBER	GROSS AMOUNT	DISCOUNT	NET AMOUNT	DESCRIPTION
	07/19/2005	20051124	1,400.00	0.00	1,400.00	215 SACRAMENTO BLDG PRODUCTS
			1,400.00	0.00	1,400.00	

8/23/05 Clay Darr
Mark Boone

RECEIVED
AUG 8 2005
CITERS

SAFEGUARD. LMHO USA REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422 04/05 112-00 L04SF021461M

THE ORIGINAL DOCUMENT IS PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER. SEE REVERSE SIDE FOR COMPLETE SECURITY FEATURES.

MASCO CONTRACTOR SERVICES WEST, INC.
(386) 304-2217
260 Jimmy Ann Drive
Daytona Beach, Florida 32114

COMERICA BANK &TRUST
Detroit, MI

74-478
724

Check No.
12029466
Aug 04, 2005

PAY ***One Thousand Four Hundred Dollars And 00 Cents

*****$1,400.00**

MASCO CONTRACTOR SERVICES WEST, INC.
TWO SIGNATURES REQUIRED OVER $25,000.00

Dale Carroll

To The Order Of

CALIFORNIA HOME ENERGY EFFICIENT RATING SERVICES
9400 TOPANGA CANYON BLVD, #220
CHATSWORTH CA
91311

THIS DOCUMENT INCLUDES A HIDDEN WORD. DO NOT CASH IF THE WORD VOID IS VISIBLE. DOCUMENT ALSO CONTAINS HEAT SENSITIVE INK. TOUCH HERE. RED IMAGE DISAPPEARS WITH HEAT.

Vendor:	Short Name	Vendor No.	Check Total	Check No.	12028217
CALIFORNIA HOME ENERGY EFFICIENT RATING SERVICES	CALGFSERVICES	50048258	$350.00	Check Date	Jul 08, 2005

SEQUENCE NUMBER	INVOICE DATE	INVOICE NUMBER	GROSS AMOUNT	DISCOUNT	NET AMOUNT	DESCRIPTION
	06/25/2005	2005889*	350.00	0.00	350.00	215 SACRAMENTO BLDG PRODUCTS
			350.00	0.00	350.00	

JUL 12 2004

SAFEGUARD REORDER FROM YOUR LOCAL SAFEGUARD DISTRIBUTOR, IF UNKNOWN, CALL 800-523-2422 0205 112 00 L025-021

ORIGINAL DOCUMENT IS PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER - SEE REVERSE SIDE FOR COMPLETE SECURITY FEATURES

MASCO CONTRACTOR SERVICES WEST, INC.
(386) 304-2217
260 Jimmy Ann Drive
Daytona Beach, Florida 32114

COMERICA BANK &TRUST
Detroit, MI

74-478
724

Check No.
12028217
Jul 08, 2005

PAY ***Three Hundred And Fifty Dollars And 00 Cents

***$350.00

MASCO CONTRACTOR SERVICES WEST, INC
TWO SIGNATURES REQUIRED OVER $25,000.00

To The Order Of

CALIFORNIA HOME ENERGY EFFICIENT RATING SERVICES
9400 TOPANGA CANYON BLVD, #220
CHATSWORTH CA
91311

DOCUMENT INCLUDES A HIDDEN WORD. DO NOT CASH IF THE WORD VOID IS VISIBLE. DOCUMENT ALSO CONTAINS HEAT SENSITIVE INK. TOUCH HERE - RED IMAGE DISAPPEARS WITH HEAT

Vendor:	Short Name	Vendor No.	Check Total	Check No.	13016168
CHEERS-California Home Energy Efficiency Rating Sv	CHEERS	50082858	$1,400.00	Check Date	Mar 20, 2006

PO/SO/CO NUMBER	INVOICE DATE	INVOICE NUMBER	GROSS AMOUNT	DISCOUNT	NET AMOUNT	DESCRIPTION
	01/31/2006	209060131CK	1,400.00	0.00	1,400.00	209 COAST BLDG PROD
			1,400.00	0.00	1,400.00	

2006-1683 – Brandon Wood
2006-167 Mike Smith

RECEIVED
MAR 23 2006

Brandon Wood

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AMERICAN NATIONAL SERVICES, INC.
aka MASCO CONTRACTOR SERVICES
(386) 304-2217
260 Jimmy Ann Drive
Daytona Beach, Florida 32114

COMERICA BANK &TRUST
Detroit, MI

74-478
724

Check No.
13016168
Mar 20, 2006

PAY ***One Thousand Four Hundred Dollars And 00 Cents ***$1,400.00

AMERICAN NATIONAL SERVICES, INC.
TWO SIGNATURES REQUIRED OVER $5,000.00

To The Order Of

CHEERS-California Home Energy Efficiency Rating Sv
9400 TOPANGO CANYON BLVD #220
CHATSWORTH CA
91311

S PROTECTED BY A TRUE WATERMARK, INVISIBLE FLUORESCENT FIBER, MULTI-LANGUAGE VOID, CHEMICAL REACTIVE STAIN

.CAN NATIONAL SERVICES, INC.
..a MASCO CONTRACTOR SERVICES
(386) 304-2217
260 Jimmy Ann Drive
Daytona Beach, Florida 32114

COMERICA BANK & TRUST
Detroit, MI

74-478
724

Check No.
13016193
Mar 21, 2006

PAY ***Seven Hundred Dollars And 00 Cents ***$700.00

AMERICAN NATIONAL SERVICES, INC.
TWO SIGNATURES REQUIRED OVER $60,000.00

To The Order Of

CHEERS-California Home Energy Efficiency Rating Sv
9400 TOPANGO CANYON BLVD #220
CHATSWORTH CA
91311

[redacted]

4/11

Toy	Randy	Sen	563-79-9475
Last	First	M.I.	Social Security #

Home Address:

Street: 5341 Judsonville Drive City: Antioch

State: CA Zip Code: 94531 Phone #: (925) 757-1881 Cell #: (925) 807-5625

Business:

Name: Coast Building Products

Street: 1920 Mark Court Suite 100 City: Concord

State: CA Zip Code: 94520 Phone #: (925) 671-8111 Fax #: (925) 671-8119

Briefly describe your type of business:

Contractor Services

Cities/Counties where you plan to perform ratings: Contra Costa County, Solano County

Describe your formal education: (School, City, Degree, Subjects, etc.)

California State University Sacramento
Criminal Justice B.S. degree

List the licenses that you have in related field(s):

N/A

RECEIVED
MAR 24 2006

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Short Name	Vendor No.	Check Total	Check No.	13016392
(S-California Home Energy Efficiency Rating CHEER	50082858	$700.00	Check Date	Mar 31, 2006

E ER	INVOICE DATE	INVOICE NUMBER	GROSS AMOUNT	DISCOUNT	NET AMOUNT	DESCRIPTION
	03/30/2006	208060328CK	700.00	0.00	700.00	208 COAST BUILDING PROD
			700.00	0.00	700.00	

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APR - 5 2006

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ERICAN NATIONAL SERVICES, INC.
a MASCO CONTRACTOR SERVICES
6) 304-2217
Jimmy Ann Drive
tona Beach, Florida 32114

COMERICA BANK &TRUST
Detroit, MI

74-478
724

Check No.
13016392
Mar 31, 2006

AY ***Seven Hundred Dollars And 00 Cents

***$700.00

AMERICAN NATIONAL SERVICES, INC.
TWO SIGNATURES REQUIRED OVER $60,000.00

e
der

CHEERS-California Home Energy Efficiency Rating Sv
9400 TOPANGO CANYON BLVD #220
CHATSWORTH CA
91311

[redacted]

Vendor:	Short Name	Vendor No.	Check Total	Check No.	13018617
CHEERS-California Home Energy Efficiency Rating Sv	CHEERS	50082858	$300.00	Check Date	Aug 09, 2006

QUENCE NUMBER	INVOICE DATE	INVOICE NUMBER	GROSS AMOUNT	DISCOUNT	NET AMOUNT	DESCRIPTION
	08/08/2006	209060808CKB	300.00	0.00	300.00	209 COAST BLDG PRODUCTS
			300.00	0.00	300.00	

8/15 Brandon Wood
Mike Smit
Randy Toy

FORMS MANAGEMENT INC (248) 543-0505 Form # L301 Revision 4 05

THIS CHECK IS PROTECTED BY A TRUE WATERMARK. INVISIBLE FLUORESCENT FIBERS. MULTI-LANGUAGE VOID. CHEMICAL REACTIVE STAINS. PRINT LOC & A COPY-VOID CHECK BACKGROUND

MERICAN NATIONAL SERVICES, INC.
386) 304-2217
50 Jimmy Ann Drive
aytona Beach, Florida 32114

COMERICA BANK &TRUST
Detroit, MI

74-478
724

Check No.
13018617
Aug 09, 2006

AY ***Three Hundred Dollars And 00 Cents

***$300.00

AMERICAN NATIONAL SERVICES, INC.
TWO SIGNATURES REQUIRED OVER $60,000.00

President, American National Services

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CHEERS-California Home Energy Efficiency Rating Sv
9400 TOPANGO CANYON BLVD #220
CHATSWORTH CA .
91311

[redacted]

Energy Sense Inc

Check Sequence No: 0001
Page 1 of 1

Vendor: CALIFORNIA HOME ENERGY EFFICIE
Vendor No.: 108926
Check Total: $1,500.00
Check No.: 780932
Check Date: 09-APR-08

Invoice Date	Invoice No.	Gross Amount	Discount	Net Amount	Description
3/31/08	314080331CK	1,500.00	0.00	1,500.00	314 ENERGY SENSE Solar Corey Bernhardt Israel Calleros Matthew Jordan Jaime Padron Tim Williams
	Totals	1,500.00	0.00	1,500.00	

THIS CHECK IS PROTECTED BY A TRUE WATERMARK, INVISIBLE FLUORESCENT FIBERS, MULTI-LANGUAGE VOID, CHEMICAL REACTIVE STAINS, PRINT LOCK, A COPY VOID, CHECK BACKGROUND

Energy Sense Inc
260 JIMMY ANN DR.
DAYTONA BEACH, FL 32114
(386) 304-2217

VOID VOID VOID

PNC
Jeannette, PA

60-162
433

Check No.
780932
09-APR-08

PAY One Thousand Five Hundred Dollars And 00 Cents*** **********$1,500.00

Energy Sense Inc
TWO SIGNATURES REQUIRED OVER $60,000.00

To The Order Of
CALIFORNIA HOME ENERGY EFFICIENT
RATING SERVICES
18627 BROOKHURST ST 371
FOUNTAIN VALLEY, CA, 92708

[redacted] [redacted] [redacted]

Energy Sense Inc

Check Sequence No: 0001

Vendor CALIFORNIA HOME ENERGY EFFICIE
Vendor No. 108926
Check Total $600.00
Check No. 796038
Check Date: 20-MAY-08

Invoice Date	Invoice No.	Gross Amount	Discount	Net Amount	Description
05/16/08	314080516CK	600.00	0.00	600.00	314 ENERGY SENSE
	Totals	600.00	0.00	600.00	

THIS CHECK IS PROTECTED BY A TRUE WATERMARK, INVISIBLE FLUORESCENT FIBERS, MULTI-LANGUAGE VOID, CHEMICAL REACTIVE STAINS, PRINT LOCK, A COPY VOID CHECK BACKGROUND.

Energy Sense Inc
260 JIMMY ANN DR.
DAYTONA BEACH, FL 32114
(386) 304-2217

PNC
Jeannette, PA

60-162
433

Check No. 796038
20-MAY-08

PAY Six Hundred Dollars And 00 Cents**********

**********$600.00

Energy Sense Inc
TWO SIGNATURES REQUIRED OVER $60,000.00

To The Order Of
CALIFORNIA HOME ENERGY EFFICIENT
RATING SERVICES
20422 BEACH BLVD STE 235
HUNTINGTON BEACH, CA, 92648

David Baer Case 6/3-5/08 2008-1566

[redacted]