

**STATE OF CALIFORNIA**  
**ENERGY RESOURCES CONSERVATION**  
**AND DEVELOPMENT COMMISSION**

CALIFORNIA LIVING & ENERGY (a  
division of William Lilly & Associates, Inc.)  
and DUCTTESTERS, INC.,

Docket Number 08-CRI-01

Complainants,

**COMPLAINANTS APPLICATION FOR  
WITNESS SUBPOENAS**

vs.

MASCO CORPORATION and  
ENERGYSENSE, INC.,  
Respondents.

<b>DOCKET</b> 08-CRI-1	
<b>DATE</b>	MAR 10 2009
<b>RECD.</b>	MAR 11 2009

Pursuant to the relevant sections of the California Code of Regulations, Complainants CALIFORNIA LIVING AND ENERGY and DUCTTESTERS, INC. hereby respectfully request that the California Energy Commission (hereinafter "the Commission") issue subpoenas for the attendance of the following individuals at the Hearing set for March 17 to March 19, 2009.

**I.**  
**COMMISSIONS AUTHORITY TO ISSUE SUBPOENAS**

The Commission's power to issue the requested subpoenas is reposed within Title 20, section 1203 of the California Code of Regulations. This section provides that the chairman or presiding member of the Commission may "[I]ssue subpoenas and subpoenas duces tecum at the direction of the Commission, on his motion or upon application of any party."

**II.**  
**IDENTIFICATION OF INDIVIDUALS TO WHOM COMPLAINANTS  
REQUEST THE COMMISSION TO ISSUE WITNESS SUBPOENAS AND  
THE REASON THEIR ATTENDANCE IS REQUESTED.**

Complainants requests that the Commission issue subpoenas to the following persons requiring their attendance at the Hearing currently scheduled for March 17 – 19 , 2009:

1. William Pennington - California Energy Commission, 1516 Ninth Street, Sacramento, CA 95814: Mr. Pennington has been actively involved in the investigation into alleged conflicts of interest regarding Masco and other Masco-

related entities and can provide important information regarding these investigations previously carried out by the Commission.

2. William Staack – California Energy Commission, Sacramento, 1516 Ninth Street, Sacramento, CA 95814: Mr. Staack was also involved in the previous investigations carried out into the alleged conflicts of interests regarding Masco and Energy Sense and can provide information regarding several issues, including, but not limited to, written communications with David Bell of Respondent Energy Sense.
3. Tav Commins – California Energy Commission, 1516 Ninth Street, Sacramento, CA 95814: Mr. Commins, like William Pennington, has been actively involved in the investigation into alleged conflicts of interest regarding Masco and other Masco-related entities for many years and can also provide important information regarding these investigations.
4. David Bell; Respondent Energy Sense, Inc.: Mr. Bell occupies a position of authority with Respondent Energy Sense and will have relevant information concerning Energy Sense's structure and operation.
5. Doug Beaman, 608 13<sup>th</sup> Street, Modesto, CA 95354. Complainants are informed and believe that Mr. Beamon has been actively involved in any investigations carried out by CHEERS into the alleged conflicts of interest and can provide relevant testimony as to these issues.
6. Kirk Dall – All Star Home Inspection Services, P.O. Box 1591, Manteca, California, 95356: Mr. Dall is a home inspector performing Title 24 inspection services within the Central San Joaquin Valley and can provide relevant evidence as to both past and present practices of Energy Sense, Inc. and other Masco related entities regarding Title 24 HERS inspections.

Dated: March 10, 2009

GIANELLI & ASSOCIATES,  
A Professional Law Corporation

By: 

BRETT L. DICKERSON  
Attorneys for Complainants

1 **PROOF OF SERVICE**

2 I, NIVES GUTHRIE, declare:

3 I am a citizen of the United States and a resident of the County of Stanislaus, State of  
4 California. I am over the age of eighteen years and not a party to the within action; my business  
5 address is 1014 – 16<sup>th</sup> Street, Modesto, California 95354.

6 I am readily familiar with the business practice for collection and processing of  
7 correspondence, and on March 10, 2009 I served:

8 **PETITIONERS APPLICATION FOR WITNESS SUBPOENAS**

9 in the following manner and addressed as set forth below;

10 XX **Via United States Postal Service:** Such correspondence was enclosed in a sealed  
11 envelope with postage thereon fully prepaid, addressed as stated below. I caused such envelope  
12 to be deposited in the U.S. Mail at Modesto, California through the firm's ordinary course of  
13 business.

14 **PLEASE SEE ATTACHMENT**

15 XX **Via Federal Express.** Such correspondence was enclosed in a sealed envelope  
16 with delivery charges thereon fully prepaid, addressed as stated below. I caused such envelope  
17 to be presented to Federal Express at my business address at or about 3:00 p.m. through the  
18 firm's ordinary course of business.

19 Dockets Unit  
20 California Energy Commission  
21 1516 Ninth Street, MS 4  
22 Sacramento, CA 95814

23 I declare under penalty of perjury under the laws of the State of California that the  
24 foregoing is true and correct and if called could truthfully testify thereto.

25 Dated: March 10, 2009 at Modesto, California.

26   
27 NIVES GUTHRIE  
28

1 STEVEN S. FRANKEL  
2 Sonnenschein Nath & Rosenthal LLP  
3 525 Market Street, 26<sup>th</sup> Floor  
4 San Francisco, CA 94105-2708

5 Carol A. Davis  
6 CHEERS Legal Counsel  
7 3009 Palos Verdes Drive West  
8 Palos Verde Estates, CA 90274

9 Certified Energy Consulting  
10 Attn: John Richau, HERS Rater  
11 4782 N. Fruit Avenue  
12 Fresno, CA 93705

13 California Certified Energy Rating &  
14 Testing Services (CalCERTS)  
15 Attn: Mike Bachand  
16 31 Natoma Street, Suite 120  
17 Folsom, CA 95630

18 California Building Performance  
19 Contractors Association (CBPCA)  
20 Attn: Randel Riedel  
21 1000 Broadway, Suite 410  
22 Oakland, CA 94607

23 California Home Energy Efficiency  
24 Rating System (CHEERS)  
25 Attn: Robert Scott  
26 20422 Beach Blvd.  
27 Huntington Beach, CA 92648

28 Duct Testers, Inc.  
Attn: Dave Hegarty  
P.O. Box 266  
Ripon, CA 95366

Energy Inspectors  
Attn: Galo LeBron, CEO  
1036 Commerce Street, Suite B  
San Marcos, CA 92078

ConSol  
Attn: Mike Hodgson  
7407 Tam O'Shanter Drive  
Stockton, CA 95310-3370

**GIANELLI & ASSOCIATES**

A Professional Law Corporation  
1014 16<sup>th</sup> Street / P.O. Box 3212  
Modesto, CA 95353  
Telephone: (209) 521-6260

1 Dennis L. Beck  
2 Senior Staff Counsel  
3 California Energy Commission  
4 1516 Ninth Street, MS-14  
5 Sacramento, CA 95814  
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