

DOCKET

12-CAI-02

STATE OF CALIFORNIA — NATURAL RESOURCES AGENCY

EDMUND G. BROWN JR., Governor

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov

DATE APR 13 2012

RECD. APR 13 2012



Form CEC-108: SERVICE ON THE CHIEF COUNSEL

PURPOSE OF THIS FORM:

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Filer's Name: CalCERTS, Inc.

Title of document to be served: Complaint and Request for Investigation of Valley Duct Testing

This document relates to docket #: Separate But Related to Docket 12-CAI-01

Please check only one of the following boxes:



Section 1231: I am filing a **complaint or request for investigation**. Please file my document with the Chief Counsel.



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or EMAIL: PUBLICADVISER@ENERGY.CA.GOV

VIA EMAIL AND U.S. MAIL

April 13, 2012

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Re: Complaint and Request for Investigation of Valley Duct Testing

Dear Committee Members:

We represent CalCERTS, Inc. ("CalCERTS") and submit this complaint and request for investigation of Jaar Sales, Inc., doing business as Valley Duct Testing ("Valley Duct Testing") on its behalf pursuant to California Code of Regulations Title 20, Article 4, section 1230.

CalCERTS is a certified provider under California's Home Energy Rating System ("HERS") Program.¹ Valley Duct Testing employs a number of HERS Raters certified by CalCERTS who conduct HERS ratings with regard to existing and new construction. CalCERTS received a complaint regarding the falsification of HERS Program data by Valley Duct Testing management and employees. As a result, CalCERTS commenced an investigation and ultimately decertified two Valley Duct Testing raters, Erik Hoover and Patrick Davis. Those raters contest their decertifications through proceedings before the California Energy Commission "Commission" under Docket No. 12-CA-01 (the "Related Action").

¹ 20 C.C.R. §§ 1671- 1674.

In its Answer to Mr. Hoover and Mr. Davis' Complaint, CalCERTS identified the complainant that prompted the investigation—William Barrett, a former Valley Duct Testing employee and certified HERS rater. Mr. Barrett has now provided CalCERTS and this Commission a Declaration which identifies specific instances of misconduct by Valley Duct Testing management and employees. For example, and perhaps most egregiously, Valley Duct Testing's President, John Flores, instructed his employees to falsify HERS data in order to provide customers with standard compliant ratings. Based on the information provided by Mr. Barrett, there appears to be a culture that encourages duplicitous ratings at Valley Duct Testing. Even more troubling, Mr. Flores appears to be attempting to intimidate Mr. Barrett in order to prevent him from providing the information he has, and to interfere with his attempts to secure employment following his termination from Valley Duct Testing.

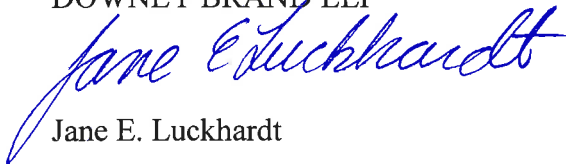
Raters and, by extension, Valley Duct Testing, are obligated under the HERS Program to provide true and accurate rating information. Valley Duct Testing is encouraging its raters to ignore that mandate. This imperils the integrity of the HERS Program and strikes at the very purpose for which it was adopted—to protect consumers through accurate ratings.

In light of the foregoing, CalCERTS believes there is justification for this complaint and good cause for an investigation. CalCERTS respectfully submits that action at the Commission level is appropriate. While CalCERTS has a relationship with individual HERS Raters, and may discipline those raters for failure to meet their regulatory and contractual obligation to submit accurate and truthful data, it cannot effectively ensure compliance with the HERS Program by management at multi-rater entities like Valley Duct Testing. And, if the Commission does not believe it is empowered to do this, then CalCERTS believes the Commission must identify an appropriate means for the resolution of complaints related to management at multi-rater entities like Valley Duct Testing.

The Commission should initiate an investigation against Valley Duct Testing.

Very truly yours,

DOWNEY BRAND LLP



Jane E. Luckhardt

Enclosures

SLG:ln

cc: David Haddock, Counsel for Valley Duct Testing (via e-mail)

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

In the Matter of:

**Complaint and Request for
Investigation of Valley Duct Testing**

COMPLAINT AND REQUEST FOR INVESTIGATION OF VALLEY DUCT TESTING

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April 13, 2012

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

In the Matter of:

**Complaint and Request for
Investigation of Valley Duct Testing**

COMPLAINT AND REQUEST FOR INVESTIGATION OF VALLEY DUCT TESTING

In the process of preparing CalCERTS Incorporated's ("CalCERTS") answer in Docket No. 12-CA-01 (the "Related Action"), CalCERTS recognized a pattern of false and misleading ratings. CalCERTS is dedicated to maintaining the integrity of the Home Energy Rating System Program ("HERS") as adopted by the California Energy Commission ("Commission") pursuant to California Public Resources Code ("PRC") Section 25942. The Commission's stated goal of the HERS program is to create consistent, accurate and uniform ratings. (See <http://www.energy.ca.gov/HERS/index.html>). This goal is currently subverted by false and misleading ratings meant to: appease builders, fraudulently obtain energy efficiency rebates and mislead home buyers as to the actual energy efficiency capability of a home. Thus, CalCERTS files this Complaint and Request for Investigation of Valley Duct Testing ("VDT Complaint").

I. NAME AND ADDRESS OF COMPLAINANT/PETITIONER

CalCERTS Inc.
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Counsel for CalCERTS:

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II. NAME AND ADDRESS OF RESPONDENT

Valley Duct Testing
John Flores, President
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916-624-2092

Counsel for Valley Duct Testing:

Mr. David Haddock
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III. STATEMENT OF FACTS UPON WHICH COMPLAINT OR REQUEST FOR INFORMATION IS BASED

This Complaint is based upon the attached declaration of William Barrett and the facts contained in the CalCERTS Answer in the Related Action. These facts indicate Valley Duct Testing management is fostering a culture of submitting inaccurate rating data into the CalCERTS registry. This data is used by the HERS Program to verify compliance with the energy efficiency standards set forth in Title 24 of the California Code of Regulations. The accuracy of this data provides the foundation for the entire HERS Program.

The facts cannot be ignored by this Commission. Nor can the Commission sit on the sidelines and expect CalCERTS to bear the time and expense of conducting an investigation of Valley Duct Testing.

A. The Commission Should Investigate the Barrett Complaint and Valley Duct Testing

This complaint and request for investigation is based on a complaint and declaration by William Barrett, a former Valley Duct Testing employee, and the information set forth in CalCERTS Answer in the Related Action, which is incorporated by this reference.

Preliminarily, this is not the first complaint with regard to Valley Duct Testing's submission of fraudulent data.¹ Recently, Mr. Barrett made a complaint to CalCERTS.

¹ In January 2011, CalCERTS received a complaint about Valley Duct Testing, alleging fraudulent reporting practices by Valley Duct Testing President Mr. Flores. The complaint was resolved by the temporary suspension of Mr. Flores, and the Commission published the disciplinary action at: http://www.energy.ca.gov/HERS/documents/disciplinary_actions.pdf.

CalCERTS investigated the complaint and initiated disciplinary action against two certified raters who submitted fraudulent rating data.

Mr. Barrett has now provided a declaration for this Commission which identifies specific instances of what appears to be a persistent and pervasive company culture of the submission of fraudulent rating data.

Mr. Barrett's Declaration is summarized as follows:

- Valley Duct Testing raters are encouraged by Mr. Flores to falsify, and do in fact falsify rating data to appease the demands of contractors.
- Valley Duct Testing raters are instructed by management to pass contractors with regards to Title 24 Energy Efficiency Standards even when the homes are not compliant.
- Valley Duct Testing raters are instructed to work with contractors to generate passing ratings, performing work for the contractors that is prohibited under the HERS Regulations.
- Valley Duct Testing raters are forbidden from entering failing test results into a HERS registry and will be fired if they enter a fail.

Compounding the submission of fraudulent data, it now appears as though Valley Duct Testing, specifically Mr. Flores, is attempting to intimidate Mr. Barrett and interfere with his ability to obtain work. (See Barrett Declaration at ¶¶ 30-31.)

B. The Commission Should Not Require CalCERTS To Investigate Valley Duct Testing

First, it is the Commission, rather than CalCERTS that should conduct an investigation of Valley Duct Testing. The current complaint raises a number of related issues, aside from the immediate investigation, that is needed with regard to Valley Duct Testing. As more specifically set forth in its Answer in the Related Action, CalCERTS has to the best of its ability investigated and addressed the allegations against Valley Duct Testing's individual raters. CalCERTS addressed individual rater misconduct by imposing suspensions and decertifications of individual raters found in breach of CalCERTS' rater agreements. However, CalCERTS' investigation also revealed suspicious rating and reporting practices on the part of Valley Duct Testing management that requires investigation by an authority with jurisdiction.

CalCERTS as a HERS Provider is not suited to monitor the activities of management at multi-rater entities to ensure compliance with the HERS Program. As a HERS Provider CalCERTS is responsible for the training and quality assurance of *individual* raters certified by CalCERTS², not quality assurance of multi-rater entities. CalCERTS cannot absorb the time and costs of investigating management at multi-rater entities.

The difficulties are of course compounded when management at a multi-rater entity appears to be directing and promoting the submission of fraudulent HERS data through individual raters. CalCERTS does not have the means to effectively address and/or admonish this type of conduct and should not be required to work with what should be partners in the HERS Program but are in fact adversaries.³

C. If The Commission Does Not Believe It Is Empowered To Investigate and Discipline Valley Duct Testing, It Should Identify The Authority With Jurisdiction.

The Commission must identify how HERS Providers are supposed to deal with allegations of systemic fraudulent conduct by multi-rater entities such as Valley Duct Testing. HERS Providers are tasked with managing a complaint response system to protect homeowners and the integrity of the HERS Program.⁴ Yet, in application, the complaint response system has become a tool for raters to report allegedly unethical practices of other raters; rather, than a system to receive complaints from individual homeowners regarding specific ratings.

CalCERTS' complaint response system cannot effectively address complaints issued by raters alleging fraud on the part of multi-rater entities because CalCERTS does not certify multi-rater entities and therefore has no mechanism to address these types of issues. Complaints not specific to an individual rater, or home rating must be delegated to and addressed by the Commission or an authority tasked with consumer protection. CalCERTS requests the Commission to designate the proper authority to receive complaints regarding fraudulent conduct by multi-rater entities like Valley Duct Testing.

² 20 C.C.R. §§ 1672-1673.

³ CalCERTS requests guidance from the Commission as to whether it may suspend the subscription agreements of raters working for Valley Duct Testing during the pendency of this hearing to protect the integrity of the CalCERTS' registry and the reliability of the data.

⁴ 20 C.C.R. §1673(i)(5).

IV. STATEMENT INDICATING BASIS FOR COMPLAINT AND REQUEST FOR INVESTIGATION

This complaint is based on 20 Cal. Code Regs. § 1672(m) that provides:

Providers and Raters shall not knowingly provide untrue, inaccurate, or incomplete rating information or report rating results that were not conducted in compliance with these regulations. Providers and Raters shall not knowingly accept payment or other consideration in exchange for reporting a rating result that was not in fact conducted and reported in compliance with these regulations.

V. ACTION COMPLAINANT/PETITIONER REQUESTS

CalCERTS respectfully requests the Commission undertake the following actions:

- Investigate Valley Duct Testing, and its President John Flores based on the Barrett Declaration; including an investigation of Valley Duct Testing's internal quality assurance protocols.
- Publish guidance to HERS Providers as to whether they can decline an association with multi-rater entities suspected of fraudulent conduct to protect the integrity of their registry data.
- Publish guidance to HERS Providers and HERS Raters on how to report suspected fraudulent conduct of multi-rater entities. Clearly identify the proper avenue and entities that should be notified of alleged fraudulent conduct.

VI. AUTHORITY UNDER WHICH THE COMMISSION MAY ACT

Under Section 1675(b) of Title 20, the Commission reserved the right to accept complaints concerning violations of the HERS Regulations, and to conduct an investigation of any violation of the regulations pursuant to Section 1230 et. seq. CalCERTS files this Complaint and Request for Investigation of Valley Duct Testing pursuant to Section 1675(b).

VII. PERSONS AFFECTED

Valley Duct Testing's Certified HERS Raters
2272 Sierra Meadows, Drive, Suite A
Rocklin, California, 95677
916-624-2092

Mr. William J. Barrett
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Respectfully submitted,
DOWNEY BRAND, LLP

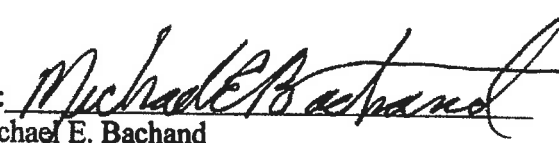
By: 
Andrew L. Collier
Attorneys for CalCERTS, Inc.

VIII. DECLARATION

Pursuant to 20 CFR § 1231(b)(8), under penalty of perjury, we the undersigned hereby
declare that to the best of our knowledge the information contained herein is true and accurate.

Dated: April 13, 2012

CALCERTS, INC

By: 
Michael E. Bachand
President, CalCERTS, Inc.

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

In the Matter of:

**Complaint and Request for
Investigation of Valley Duct Testing**

DECLARATION OF WILLIAM J. BARRETT

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April 11, 2012

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

In the Matter of:

**Complaint and Request for
Investigation of Valley Duct Testing.**

DECLARATION OF WILLIAM J. BARRETT

I, William J. Barrett, declare as follows:

Education and Employment as a Certified HERS Rater with Valley Duct Testing

1. In 2011, I became certified as a Home Energy Rating System Rater pursuant to a Rater Agreement with CalCERTS, Inc. ("CalCERTS"). Prior to my certification with CalCERTS, in 1998 I earned a Bachelor of Science Degree in Business, Operations Management, and Strategic Management, from California State University of Sacramento.

2. During my certification and training with CalCERTS, I was made aware of and understood the obligation to provide truthful and accurate information in connection with home ratings, both as required under my Rater Agreement with CalCERTS and as required by the HERS Regulations.

3. Following my certification, I obtained employment with Valley Duct Testing ("VDT") as a HERS Rater. I worked for VDT from approximately July 28, 2011 to approximately September 10, 2011. During my tenure as an employee, John Flores was the President and manager of day to day operations at VDT and the person to whom I reported relative to my daily job duties.

Observations During Ride-Alongs With VDT Raters

4. After being hired by Mr. Flores to work for VDT, I was assigned to “ride-along” with different VDT raters to receive on-the-job training. I worked in tandem with VDT certified HERS Raters Erik Hoover from approximately July 28, 2011 to August 5, 2011, and Scott White from approximately August 6, 2011 to August 8, 2011. During this time I received training as to how VDT performs ratings, prepares homes for ratings, interacts with clients, and conducts problem solving in the field. During my training I was paid hourly. After the training, like the other VDT raters, I was compensated by the number of ratings I conducted.

5. During my first day at VDT, I accompanied Mr. Hoover to 5520 Harrison Street, North Highlands, California, to perform testing on an apartment complex. The complex had many clear Title 24 violations. Mr. Hoover passed the complex, reporting that all accessible leaks had been sealed, but stated to me that “it is impossible to seal all the leaks.” Mr. Hoover informed me that VDT had tested the unit before and that the complex would not get any better. Mr. Hoover did not perform a smoke test on these apartments and passed the complex as Title 24 compliant even though it was not. I witnessed Mr. Hoover report the Title 24 violations as passes, which directly contradicted the training I had received at CalCERTS and the HERS Regulations.

6. Thereafter, I was asked to accompany Mr. Hoover to Stockton, California, to help perform refrigerant charge and duct test ratings on 17 homes over two days in a new development along Malbec Court and Merlot Lane. I was informed by Mr. Hoover during the car ride to Stockton that we would be helping out one of Mr. Flores’ “friends” and that “we had to take care of this guy.” When we arrived and began testing it was clear that the homes were not going to pass inspection. Mr. Hoover began taping supply boots and ducts for the contractor, while I prepared the vents for the rating tests. Mr. Hoover asked me to seal the ducts for the contractor so that the home would pass, but I refused. I refused because I was instructed during my training that this type of work was not permitted to be performed by the rater and was the

responsibility of the contractor. When we returned that evening to VDT both Mr. Hoover and I informed Mr. Flores of the condition of the newly built homes and told Mr. Flores how it was unlikely the homes would pass inspection. There was a discussion between Mr. Hoover, Mr. Flores, and myself about the poor construction of the duct work and how it was unlikely the homes would be able to meet the 6% target rate required of new construction without major revisions to the new duct work.

7. Mr. Flores sent Mr. Hoover back to Stockton to complete the ratings of the 17 homes. Mr. Flores did not send me, but replaced me with Patrick Davis. I believe that Mr. Hoover and Mr. Davis completed testing on all 17 of the homes in that one day, and each of the homes reportedly passed inspection. In my opinion it would have been impossible to rate all 17 homes in one day with only two raters.

8. After working at VDT for approximately three weeks, I accompanied Mr. White to 816 Mormon St., Folsom, California, to rate a home with regard to alterations. The home failed the required cooling coil airflow inspection. When Mr. White informed the contractor of the failure, the contractor replied that the fan speed could not be changed and that there would be no alterations made to the ducts. Mr. White then proceeded to pass the home with respect to the cooling coil airflow, stating that it was “not a big deal.”

9. At that same address the home passed a duct leakage test using the nominal heating method but failed using the nominal cooling method. When Mr. White and I returned to VDT, Mr. Flores asked about the ratings and we informed him of the results. Mr. Flores became angry and instructed Mr. White to change the duct leakage results to indicate that the home passed using the nominal cooling method rather than the nominal heating method. Mr. Flores informed us that the home had to pass using the cooling method for the contractor to make good on the rebate promised to the homeowner. Mr. Flores demanded that Mr. Scott change the rating data to reflect a passing score using the nominal cooling method. Mr. Scott changed the numbers as instructed. The field data sheet used to collect the rating data was soon thereafter shredded as is common practice in my experience at VDT.

10. During my time shadowing Mr. Hoover and Mr. White, I witnessed each rater improperly seal smart vents entirely shut so that the home would pass duct testing. When I asked about this practice I was informed that VDT raters who do not seal smart vents for contractors will be denied work by both the contractor and Mr. Flores.

11. Mr. Scott told me that Sierra Pacific Home and Comfort, Inc. (“Sierra Pacific”) requests raters who will pass homes with broken smart vents. If a rater fails to seal a broken smart vent, Sierra Pacific will call Mr. Flores and tell him not to send out that particular rater. Mr. Flores in turn cuts the rater from doing work for Sierra Pacific, cutting the rater’s ability to earn an income. Mr. Flores would call this form of rater discipline a “personality conflict.” Mr. Hoover confirmed to me that this is a common practice, not just with Sierra Pacific but with other contractors as well, and that I should be amenable to the contractors’ needs.

12. While shadowing Mr. White and Mr. Hoover, I witnessed whole house tests being conducted on homes not ready to be tested because construction was not complete. Homes that were not yet sealed with weather stripping on the doors, vents, and attic access, were tested using blower door tests. These homes were prematurely rated and thus the results would not be accurate.

13. During this same period I also witnessed homes rated and passed for Quality Insulation Installation (QII) that were not finished being constructed and the insulations not fully installed.

14. During my training I was told to test refrigerant charge using the temperature-split method rather than use the flow hood. The temperature split method allows more room to adjust numbers than the far more precise flow hood. I was instructed by Mr. Hoover and Mr. White that in order to “stay out of the way of the contractor” it would be best to take the measurements for the temperature split methods at the vents, rather than use the TMAHs installed by the contractors.

15. One day while I was working with Mr. White at VDT, Mr. Flores confronted Mr. White in front of me and informed him that Mr. White needed to complete NSHP rating on solar

panels more quickly. Mr. Flores informed everyone in the room at the time that Patrick Davis is able to complete an NSHP rating on solar panels within 20 minutes, despite it taking solar contractors an average of an hour to complete the testing. Mr. Flores demanded that Mr. White improve his efficiency or he would lose the opportunity to do this type of rating work to Mr. Davis. In my opinion it would be highly unlikely for a rater to accurately complete an NSHP rating in 20 minutes.

Encounters with Mr. Flores During Employment With VDT

16. After my initial training with Mr. Hoover and Mr. White I began to independently rate homes, from approximately August 12, 2011 through September 10, 2011. I was compensated by the number of ratings conducted.

17. During one of my initial ratings I failed a home with regard to TXV. When I attempted to enter the failing test Mr. Flores informed me that VDT does not record failures. I was told by Mr. Flores that I would not be allowed to work for him if I registered fails. Because this instruction directly contradicted the information I received during my training at CalCERTS I asked Mr. Flores about VDT's policy of not reporting failure. I was told that "VDT raters are in the business of helping contractors pass" and was instructed that if I entered the fails I would no longer be working at VDT. I was instructed to retest the house with the failing TXV.

18. During my employment it was often the case that if I noted a failure in the field during my inspections Mr. Flores was aware of the failure by the time I returned to VDT. I could only assume that the contractor notified him of the failure. Mr. Flores would inquire about the circumstances of the failure, prevent me from recording the failure in the registry, and he would send a different rater to re-evaluate the home. Mr. Flores would state that "I send you out there to pass them not to fail them" referring to the contractors. Often Patrick Davis or Erik Hoover were sent to re-rate homes that initially failed inspection.

19. I confirmed from other raters that Mr. Flores gives preferential work assignments to raters who pass contractors the first time, even if the contractor's work was in violation of

Title 24. Both Mr. White and Mr. Hoover told me that it is VDT raters' job to see that the contractors pass and that it is the rater's responsibility to stay on the job until the contractor passes. I was informed by Mr. Hoover and Mr. White that VDT is a customer service business, the customer is the contractor and *not* the homeowner.

20. Near the end of my employment with Valley Duct Testing, Mr. Flores sent me out with a malfunctioning manometer, which is a tool used to record duct leakage measurements. I informed Mr. Flores of the problem and he told me I did not know what I was doing and that there was nothing wrong with the instrument I was using. I checked the calibration date on the back on the manometer to see if it was current. Aubrey Husain, who worked as an administrative assistant, told me that she was in charge of changing the calibration dates even though the instrument had not been calibrated or inspected. Ms. Husain said the same was true for the refrigerant charge instruments. According to Ms. Husain this was standard operating procedure for all testing instruments at VDT. To resolve the problem of my broken manometer, I had to have another VDT rater confirm that the manometer was bad, and Mr. Flores begrudgingly agreed to replace it.

21. During the entire time I worked for VDT, I regularly asked contractors to correct problems that I had identified in the field and I offered contractors the opportunity to make changes so that the home would come into compliance with the regulations. For example, if a home failed ducts leakage, and was entitled to a toe-kick allowance, I would liberally apply the allowance and let the contractor make any necessary alterations to meet the target measurements. However, I consistently refused to falsify rating data for contractors, and I repeatedly questioned whether I should report failures into the CalCERTS registry. I independently conducted approximately eighteen ratings, and quickly suffered the economic repercussions of identifying failures in the field.

22. In early September, there was a week in which I was not assigned any rating work. Because of the way VDT raters are compensated this created an economic hardship for me. When I mentioned this to the administrative staff and asked if there was any work for me,

the administrative staff informed Mr. Flores of my predicament. Mr. Flores informed me that he regularly loans employees money, and offered me a loan of five to ten thousand dollars. I did not accept the loan, but asked other VDT employees whether this was a common practice at VDT. I was informed by the administrative staff that several other VDT raters had borrowed money from Mr. Flores.

23. The next day I was terminated. Mr. Flores told me that I should not have mentioned the loan policy to others, that he could not trust me, and that things were not working out. No other explanation was given.

24. I believe I was terminated from Valley Duct Testing because I was unwilling to falsify Title 24 information.

25. It is my opinion that Mr. Flores uses various methods to compel raters to issue passing ratings for contractors in cases where they are not merited. Mr. Flores does this by renting homes to raters at below market-rates; offering low interest loans to his raters; and withholding rating work from raters who have failed contractors. Because Mr. Flores could not compel me to falsify data, I was terminated.

After VDT & The Complaint to CalCERTS

26. In September of 2011, I made a formal complaint to CalCERTS about Mr. Flores and VDT's practice of passing contractors with Title 24 violations. I met with CalCERTS and described what, based on my experience and observations, I believe to be a pattern and practice of deceptive conduct.

27. Soon after leaving VDT, I began working for California Living and Energy as a HERS Rater. While working for California Living and Energy I was permitted to conduct ratings as instructed by CalCERTS. I reported failures when they occurred, which was approximately 20% of the time. My employer Bill Lilly never challenged my abilities as a rater or my customer service. Mr. Lilly never asked me to change or alter my rating data. I worked for California Living and Energy from December 2011 through February 2012.

28. While working for California Living and Energy I was rating homes with Gabriel Lopez in the Serrano Project in El Dorado Hills. While conducting the ratings we encountered a problem with a Quality Insulation Installation (“QII”) test on a home, and informed Jeff Cable, Regional Manager of ALCAL ARCADE Contracting of the failure. Mr. Cable was frustrated by the QII failure, and without any solicitation told us that he had recently failed a QII inspection conducted by VDT, but that the failure was corrected by VDT before Mr. Cable had implemented any alterations or repairs. Mr. Cable was not asking Mr. Lopez or myself to pass the home as to QII, but was expressing great frustration at the inconsistencies among the raters and the standards imposed by rating companies, particularly VDT.

29. On March 28 2012, I was asked to speak at an employment conference put on by the Sacramento Employment and Training Association (“SETA”). During that conference I talked about my experience as a HERS Rater and I discussed the requirement for accuracy and honesty associated with the obligations of the profession, and stated that raters cannot do “drive bys” or simply “sign off” on ratings. I stressed the importance of a HERS Rater’s duties and obligation. I did not mention my complaint to CalCERTS or any of my observations at VDT. The only reference I made about Valley Duct Testing at the seminar was to state that VDT had advertised two positions and appeared to be looking to hire raters.

30. The following week I received a letter from VDT’s attorney Davis Haddock threatening me with a defamation suit and breach of contract claim. Attached hereto as **Exhibit 1**, is a true and correct copy of the letter. Although Mr. Haddock did not specify the “public comments” he was concerned about, the reference to “drive bys” and “just sign off” leads me to believe he is referring to the SETA seminar.

31. On April 10, 2012 Maquoo Anderson, the Solar/Green Energy employment counselor at Sacramento Works, notified me that John Flores had contacted Sacramento Works, and had spoken to Keni Addison about me and was upset. A prospective employer I had met at the conference, who I was supposed to interview with on the morning of April 10, 2012 refused to hire me after speaking with Mr. Flores that very morning.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct to the best of my knowledge and information.

Executed this 11 day of April 2012, at Sacramento, California.

Dated: April 11, 2012

By:


WILLIAM J. BARRETT

EXHIBIT 1

DAVID HADDOCK LEGAL
P. O. Box 2501
CITRUS HEIGHTS, CA 95611
VOICE: (916) 420-5802
FAX: (916) 725-6000
DAVE@DAVIDHADDOCKLEGAL.COM

April 4, 2012

Mr. William Barrett
5050 Roseville Road, #B-26
North Highlands, CA 95660

Re: Cease and Desist

Dear Mr. Barrett,

Please be advised that I have been retained by JaaR Sales, Inc. dba Valley Duct Testing to investigate and take legal action against you for a series of false, unwarranted, and defamatory attacks you have made, and continue to make, against JaaR Sales, Inc. dba Valley Duct Testing. For example, you have said both publicly and privately that JaaR Sales, Inc. dba Valley Duct Testing performs "drive bys," where they "just sign off" on duct testing jobs without performing the necessary and appropriate tests.

These statements and others that you have made in reference to JaaR Sales, Inc. dba Valley Duct Testing are utterly false and without merit, and they are defamatory per se in that they depict JaaR Sales, Inc. dba Valley Duct Testing as engaging in fraudulent activity that violates the law. By this letter, I formally demand that you cease making any false and defamatory statements regarding JaaR Sales, Inc. dba Valley Duct Testing.

You have also repeatedly violated the Confidentiality and Proprietary Information Agreement that you signed when you became an employee of JaaR Sales, Inc. dba Valley Duct Testing. My client is entitled to enforce the terms of that agreement, and will do so in court if you continue to make statements about JaaR Sales, Inc. dba Valley Duct Testing, whether publicly or in private.

Please feel free to contact me if you have any questions. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Haddock', with a long, sweeping horizontal line extending to the right.

David Haddock
Attorney at law