

RE: Statement to the CEC Commissioners May 11, 2012

<b>DOCKET</b> 12-CA1-01
DATE _____
RECD: <b>MAY 29 2012</b>

It should be obvious to all that the realization of California's energy efficiency goals through the HERS program is built upon the assumption that the HERS Rater will provide true and accurate results. As HERS Raters we sign our name to a Certificate of Verification, supposedly under threat of felony perjury, that our results are indeed, true and accurate. That being said, it is my belief that the integrity of California's energy efficiency goals can only be ensured by a pro-active vigilance against fraud, deception and those who wrap themselves in the cloak of plausible deniability; these are Raters who seemingly spend more time devising ways to circumvent the code than follow it and always at the homeowners expense. It is my belief that we do a great disservice to the public and our industry if we choose to redefine perjury and falsification of documents as simply "a mistake".

From the perspective of the HERS Rater in the field it has always appeared that little more than lip-service has ever been paid to actual code enforcement as our concerns are routinely rebuffed or ignored by building departments, utilities, the CEC and our Providers. It is my hope that with this hearing and those to follow you will begin to "right" these wrongs and clean up our industry because in part - you are responsible for allowing it to get this far by consistently ignoring our pleas and in many cases not even returning our calls.

My intent is to remind the Commissioners that this is not an isolated incident.

There is history here.

- In May 2010 and January 2011 I filed Formal Complaints with CalCERTS against Valley Duct Testing Raters naming both Patrick Davis and Erik Hoover. These complaints contained allegations of the very same infractions we have discussed today.
- In another incident, the CEC met with a HERS Rater in September of 2010 and received over 500 potentially fraudulent jobs closed by Valley Duct Testing, the CEC's response? There was no response and the Rater was never contacted again
- On a January 7, 2011 CEC initiated phone conference in regards to refrigerant charge testing the owner of Valley Duct Testing in front of over 75 participants and with great specificity- detailed the tools and methods he used for performing cold weather refrigerant charge tests in violation of code. The CEC representative had already told the attendees that anyone caught doing this would have their tests nullified and you would assume suffer the consequences. Nothing happened.
- In addition I have at least 6 informal complaints referenced by e-mails to the CEC and CalCERTS informing them of violations. These contained names and addresses.

Any Valley Duct Testing rater who didn't feel the heat of the spotlight simply was not paying attention.

And so here we are today, 2 years later with the chance to begin a campaign to clean-up the HERS industry. This is a campaign that I have grown used to waging alone against severe opposition and at great cost to my family and my business. I am proud and fortunate to work in this industry and I will not allow it to become a free-for-all; the days of the HERS industry as the wild-west need to end.

In closing, I am grateful to my friend Dave Owen for imparting these words to me back when this all began; "Never be a guilty bystander" It is my hope that the CEC will not be a guilty bystander in this matter.

I would like to submit my statement and accompanying documents to the board.

Thank You.

Tommy Young  
President, E3 NorCal

**valley**

2 messages

**Tommy Young <tommy@e3norcal.com>**

To: Mike Bachand &lt;mike@calcerts.com&gt;

Mon, May 10, 2010 at 3:43 PM

Kenny,

here is the info I told you I would send.

Most importantly- these are the jobs that have False CF4R's. No Duct Test or Refrigerant Charge has been done on the following houses:

5/9/2010 Rater: Patrick Davis PASS mech 21,25 Spoke to [REDACTED] 9:25 am NO duct Test or RCT was ever performed on her house since the original install date of 3/10/2010 [REDACTED] Wallace (209)

5/9/2010 Rater: Jeremy Rhodes PASS m21,25 Spoke to [REDACTED] 12:28 No Duct Test or RCT was ever performed and the signature on these CF4R's is a forgery [REDACTED] Woodland (

5/9/2010 JR PASS M21,25 Spoke to [REDACTED] FALSE Mech 21 and Mech 25 CF4Rs Signature is a forgery [REDACTED] E Stockton

5/9/2010 Jeremy Tested/FAIL PASS in a Group This house Failed the RCT and was subsequently put into a group as a PASS Signature is a forgery [REDACTED] Roseville

Those are just a few of the houses from last week.

Part of  
A Simple Solution to Green Building & Energy Pathways

**Mike Bachand <mike@calcerts.com>**

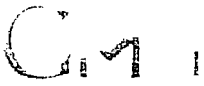
To: Tommy Young &lt;tommy@e3norcal.com&gt;

Mon, May 10, 2010 at 3:47 PM

Tommy, please be specific about why these are a problem.

Thanks,

Mike



Tommy Young &lt;grasswerks1@gmail.com&gt;

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**re: Refrigerant charge testing**

1 message

Tommy Young &lt;tommy@e3norcal.com&gt;

Fri, Feb 12, 2010 at 5:12 PM

To: mike@calcerts.com

Hi Mike,

Sorry if I seemed pushy I wasn't intending to be... I was trying to put with too large of a brush in regards to how hard it is to get answers these days from anyone-anywhere and my sarcasm probably came across as bitching and I apologize.

In regards to our conversation:

My concern was that Valley Duct Testing was submitting fraudulent Refrigerant Charge Test #'s and realize I misspoke when I said it was for New Construction.

I was hesitant to put it in writing until I spoke to you as I was unsure of its confidentiality. I assumed it would be an easy thing to check - basically if any company in Northern California is submitting #'s for Refrigerant Charge Testing I will personally challenge its veracity. We have tried everything in the book to maintain a 70 degree Return Temperature AFTER running the AC for 15 minutes and firmly believe it CANNOT be done from approximately Nov thru April.

I realize also my complaint is partly driven by the frustration of not having closed a CF4R in 6 weeks and if I even hear about a HERS rater closing them out fraudulently I want to nip it in the bud and be made aware that my source is not to be trusted.

Thanks for your time and your patience and I look forward to sometime in May when we can all get back to work.

Tommy Young

## Meeting at CalCERTS (Pre, During and Post Fallout)

Thursday May 13, 2010 10:00 am (inside CalCERTS offices)

RE: Tommy Young of E3 NorCal Complaint Against John Flores and Valley Duct Testing, Inc.

### PRESENT:

- Tommy Young, E3 NorCal (Owner, HERS Rater)
- Peter Barker, E3 NorCal (HERS Rater)
- Michael Bachand, CalCERTS, Inc. (President)
- Russ King, CalCERTS, Inc., Sierra Building Science Center (Lead Trainer for CalCERTS)
- Charlie Bachand, CalCERTS, Inc. (Solar Instructor for CalCERTS)
- John Flores, Valley Duct Testing (Owner, HERS Rater)

Prior to this meeting I asked Mike Bachand in regards to the seriousness of the charges if this meeting would be "on the record" I was told by Mike "It will be on my record and that's the only record that matters." (ref. E3NorCal letter to Max McKinney May. 9, 2010 RE: John Flores, Valley Duct Testing, Bell Brothers Mech 25's) (ref. e-mail from Tommy Young Fwd: CF4R Forgery of Signatures Valley Duct Testing 5/10/10 To: Eurlyne Geiszler, Tav Commins, Russ King)

On Thursday May 13, 2010 at our "off the record" meeting Mike Bachand, in front of all present said words to the effect of "If you two want to just settle this in the parking lot, I couldn't stop you."

I told Mike immediately this made me uncomfortable and he shouldn't be saying it.

A few minutes later he repeated the same statement at this point I stated adamantly "Mike, STOP saying that!"

Shortly thereafter Mike again said "If you two want to just settle this in the parking lot, I don't think I could stop you.... Hugo might be able to though, he's a blackbelt." (Hugo Schmidt is the webmaster for CalCERTS, Inc.). I looked at Pete Barker and said something approximating "This is a fucking joke." (Corroboration can be given by Peter Barker. Also Russ King who later said Mike was just trying to lighten the mood or be funny)

The tone of this meeting was extremely contentious and confrontational devolving at one point into John Flores yelling at me. In regards to cold weather refrigerant charge testing I asked Mike B and John F how it was legal for Valley to group CF-6R's using only MECH-26's. Mike said it was legal until the CEC issued it's clarification. I then handed Mike a copy of an e-mail addressed to him and John F on February 9, 2010 from the head of the Sacramento County Building Department, Roger Fuller. It explicitly said that the grouping of MECH-26's was not allowed. Mike responded with two declarations:

1. "What am I supposed to do with this cut & paste bullshit?"
2. I "lost about 300 e-mails" from my e-mail account and can't be responsible if I never got it.

I was explicitly informed by Mike Bachand that this investigation was costing him a lot of money.

(ref. e-mail from John Flores RE: Meeting 5/14/2010 To: Tommy Young, Mike Bachand, Russ King)

(ref. e-mail from Roger Fuller Subject: RE: 55 degree Meeting Minutes.doc 2/9/10 To: [mike@calcerts.com](mailto:mike@calcerts.com).

[golferjohn@starstream.net](mailto:golferjohn@starstream.net))

(ref. e-mail from Tommy Young RE: Thank You 5/15/10 To: Max McKinney, John Richau, Trish Young-Ortho)

### **Meeting at CalCERTS (Pre, During and Post Fallout)**

On the morning of Friday May 14, 2010 I received a phone call from Mike Bachand. This phone call was confrontational and I was told the following:

- I was reminded how much my investigation was going to cost
- I was told I was “shitting in every corner of the room and expecting someone else to clean up after me.”
- I was told I have a way about me that people don't like; “You ask a person a question and after they answer, you slide a piece of paper in front of them” to show them you 'got' them.
- I was told that unless I kept my “mouth shut about this investigation”, I would be decertified and have to sue him to get “re-instated.” (ref. e-mail from Mike Bachand RE: Thank You To: Tommy Young CC: Charlie Bachand, Russ King 5/14/10) (ref. e-mail from Tommy Young To: Max McKinney Bee: John Richau, Trish Young-Orth 5/15/2010)

Subsequently, E3 NorCal was denied any access to the CalCERTS website for a period of 2 business days as CalCERTS believed I had hacked their site. This was not true. All information was gathered off the public access page of CalCERTS. Mike Bachand informed me it had been taken down and I had effectively “ruined it for everyone.”

On Fri, May 14, 2010 at 10:59 AM, John Flores <golferjohn@starstream.net> wrote:  
Hi Tommy,

I first want to apologize for my actions at the end of the meeting. I should have not yelled at you. I have been under a lot of pressure keeping my business running as busy as it has been. The other thing is that my mom is dying and only has a few days to live. This has been very hard. It is no excuse for my actions. I want to let you know that Valley Duct Testing will never do anything intentionally wrong. If we do we always try and rectify it.

If you look at the way sampling in the 2005 Standards and the sampling groups in the 2008 standards are handled they are totally different. What, how & where? That is why we had a problem as these were are first 2008 sample groups. Valley Duct Testing indicates they have done NO Sample groups this year. This is not true and easily disproven. (See attachment #1)

In the meeting John faulted Jeremy for one of "his" common mistakes; not knowing the difference between R22 and R410. John Flores indicated that the failure on [REDACTED] was because Jeremy failed it using R22 calcs, the office "caught" his mistake and converted to R410 and it Passed. This was a furnace only changeout and Jeremy remembers it actually being an R22 system. The attached reference shows an R22 system requiring a Superheat test to pass. (See attachment #2) Jeremy's CF-4R clearly shows a Subcooling test was done.... if he "thought" the system was R22 he would have done a Superheat test.

As far as the three jobs that you called and found out that we did not test the houses you are absolutely correct. That was our input error. There is no lee-way that I can read into the code this many "input errors" Anyone could claim that for any violation. Our signed Rater Manual says "a pattern of failure to provide a true, accurate and complete rating, WHETHER WILLFUL OR NOT." On May 9th you pulled the information off of the website. After we found the problem I FOUND THE PROBLEM a couple of days later we fixed the problem by having Crystal open the tested jobs KILL THE PROJECTS, the CF4R's were already sent to customers and put that data on the correct address and kept the sample group together Incorrect as the Sample Groups have changed and now contain a mix of different signatures and a mixture of Split and Package units. Jeremy will confirm that. I have included the sample group list that show the day and time that we were at the tested house. How does John explain that Jeremy's signature is on BOTH of the houses tested at 9am? (See attachment #3) On May 14, 2010 John CLEARLY indicates that these Sample Groups are CLOSED. These are illegal groupings. And John CLEARLY indicates that this REGROUPING took place PRIOR to our meeting at CalCERTS... This is Not True and it can easily be proven that the Groups that John indicates in his e-mail no longer exist as such.

I feel bad that you lost the Bell Brothers account. I told Andy that I felt bad and wished I could work with you to take care of the account together. I don't think that can happen now. I am sorry for that. I hope that someday we can get thru this and maybe even have lunch some time. I have included the sample groups for you to look at. ALL THE SAMPLE GROUPS ARE STILL INCORRECT FILINGS AS PACKAGE UNITS ARE INCLUDED AND MECH 26'S CAN NOT BE USED TO CLOSE A GROUP OF 7.

August 18, 2010

To: Tommy Young

RE: Complaint about Valley Duct Testing

Dear Tommy:

I am sending you this report listing our findings regarding your complaint about Valley Duct Testing.

The allegations, as I understand them are as follows:

1. Valley did RCA tests when outdoor temperatures were too low and the contractor was using the weigh-in method.
2. John Flores filed fraudulent CF-4R (MECH 25) forms
3. Valley illegally grouped and closed Split Systems
4. Some CF-4R's contained forged signatures of raters who were not the rater who was out there, or there was no rater on the job at all.

Our findings are as follows:

1. I looked up the weather data for Jan and Feb 2010 on Accuweather (attached) to see if any days were above legal temp. As you can see, many were. I then compared the jobs done by Valley during that time frame and compared Mech 25's to Accuweather data. There were no anomalies that could not be explained except for one. I just found it, so will get a resolution on it in a few days. In looking at the temps, if it said, for instance, that the recorded high for the day was within 2-3 degrees of what the Mech-25 recorded, I considered it as possible. Allowing for discrepancy from weather station to actual location of house could be a few degrees, and also, within the allowed error of a thermometer.
2. If by forgery the accusation was that it was an intentional attempt to deceive the provider. John Flores, the owner, said that his girl who does data entry (available to testify if need be) did not pay attention to the DEFAULT rater in our data entry system. She just passed right through that entry and therefore put the wrong rater name on the CF-4R. John has assured us that they went back through their field work sheets and have put the correct rater on the documents.
3. If Valley did incorrectly group systems, it could only have been because CalCERTS, Inc. registry allowed it. I talked to our programmer and we have fixed the problem. He had made an assumption that just as grouping had been allowed between package and split systems with TXV in the 2005 codes, that the same rules applied in 2008.

4. This is the same problem and solution to number 2 above. John claims, and I am unable to substantiate otherwise, that this was a data entry error by a relatively new data entry person.

## Additional Findings:

There were four residences referred to in an email dated May 10<sup>th</sup>. Our investigation on this part of the complaint involved three courses of action:

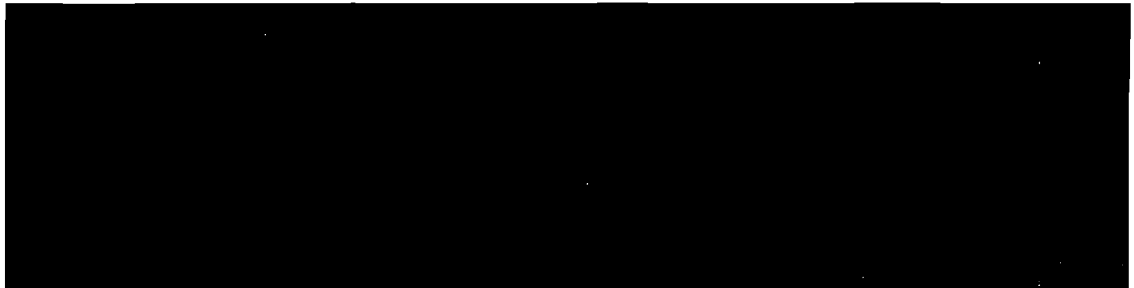
- I. Resolve why wrong signature appeared on registered documents
- II. Do QA on the four houses in question to determine if they passed or not
- III. Do QA on at least one *associated* house in the groups closed by testing on the four houses in question to determine if Bell Bros was doing good work

## Resolutions

- I. This was actually resolved as in # 2 above, citing improper data entry.
- II. We had much difficulty and little success getting into the houses listed because homeowners had been hassled so much by so many people that they were not interested in our issues. However, here is what happened:
  1. [REDACTED], Wallace. QA was set for 6/25/10 but had to be postponed due to a scheduling conflict. We thought we could get a new time with the homeowner for August 9<sup>th</sup> or 10<sup>th</sup>, but after repeated attempts to set the new time, they just stopped talking to us.
  2. [REDACTED], Woodland. QA was scheduled for 6/30/10 but was postponed due to equipment issue. We are trying to reschedule with the homeowner and have had no success, with little hope of further contact.
  3. [REDACTED], Stockton. The homeowner refused to allow us to schedule a QA inspection for undisclosed reasons. But sometimes contractors call and tell their customers not to listen to us. I do not know if that is the case here, but is not infrequent.
  4. [REDACTED], Roseville. QA done on 6/23/10. The home passed inspections with numbers in line with those on the CF-4R. The homeowner couldn't remember how many times RCT was done, but said there were a lot of inspections.
- III. See results listed below:

## TESTED HOUSES

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.





8. [REDACTED]

As you can see, we sampled 2 houses from the group associated to [REDACTED], and 1 house in the group associated to [REDACTED]. Also, we sampled 5 other houses randomly that were done by Bell and found the results listed above. On the one listed with the failure, we will notify Valley and have them notify Bell to go fix it.

#### Comments & Summary

Valley informed us that Bell Bros. went back and tested refrigerant charge on all the units they had done using the weigh-in method, and as they did them, they sent the data to Valley, who ungrouped everything, then took the new charge verification data from Bell, regrouped them, and then went out and randomly sampled the new groups. CalCERTS, Inc. subsequently randomly sampled ASSOCIATED homes from some of the group and found the results listed above. There is one home that failed due to no hole drilled, so we are notifying Valley of that address, and they will notify Bell Bros.

The temperature data I looked up was to see if, in fact some RCA tests were or could have been valid during the time period in question. I determined that there was insignificant information to demonstrate illegal activity.

We found the signature mismatch was probably due to data entry error.

Finally, we were stymied in our investigation by inappropriate interference by you during a several week period of time where you contacted homeowners, contractors, raters, us and CEC and cast about all kinds of accusations of impropriety, illegal activity, collusion, and inactivity. We regret that you did not feel things were done properly, but we each have a role to play in the industry, and for those who wish to perform certain functions, they should take appropriate steps to become qualified to do what they aspire to do.

Subsequent to this activity, CalCERTS, Inc. will be revising the Subscriber Agreement and Rater Agreement to put more guidelines and protections in place for all the stakeholders involved, so that this kind of complaint process will never be repeated by any other raters. This was a truly regrettable experience and I am embarrassed that a CalCERTS, Inc. Certified Rater would act the way you did. I feel you had no trust in CalCERTS, Inc. to do a thorough job and to do it fairly and without bias. For raters that have no faith in CalCERTS, Inc., there are other providers for them to deal with, and I am happy to release them from their agreements with CalCERTS, Inc. so they can move on to a provider they can be happy with.



environment ★ advisory

HERS Provider

training ★ certification

You will be informed when I have received a report from Valley that Bell has fixed the failed unit in question.

Sincerely,

Michael E. Bachand, President

P.S. I am sending this without signature via email so you can get it faster, but you will receive a signed copy of this in the mailing address we have on record for you. I do not send out jpegs of my signature for security purposes.

Cc: Eurllyne Geiszler  
Jim Holland

attachments

EnergyStar



Title 24



USNRG



C.E.C.

[www.calcerts.com](http://www.calcerts.com)

• 31 Natoma Street, Suite 120 • Folsom, CA • 916.985.3400 • [info@calcerts.com](mailto:info@calcerts.com) •

Date: December 20, 2010

To: Karen Douglas  
Chairman  
California Energy Commission  
1516 Ninth Street  
Sacramento, Ca. 95814-5512

Melissa Jones  
Executive Director  
California Energy Commission  
1516 Ninth Street  
Sacramento, Ca. 95814-5512

RE: An appeal to preserve the integrity of HERS Rating in California

Dear Mmes. Douglas and Jones,

My name is Tommy Young and I am the owner of E3 NorCal. I have been a CalCERTS HERS Rater since 2007 {CC2005051}. I am a Certified Energy Plans Examiner and a strong advocate for energy efficiency in multifamily and senior affordable housing. I sit on the Sacramento Green Building Task Force, as well as participate in numerous affordable housing pilot programs. E3 NorCal has provided more than 1000 third-party inspections and assessments for the Energy Commission, LEED, Build It Green, Habitat for Humanity, Energy Star and SMUD and signed more than 5000 CF-4R's in the past 3 years.

I am writing this letter in regards to a complaint that was presented to my HERS Provider, CalCERTS 7½ months ago and subsequently to the Energy Commission's Title 24 Compliance & Enforcement department 3½ months ago. On September 3, 2010 I had an hour long meeting with Jim Holland, at which I gave him more than 100 pages of Title 24-related documents that detail HERS Rater misconduct of the most egregious nature; the falsification of government documents. This evidence is fully documented; with times, dates, names, witnesses and code based violations deemed as felony perjury. There is not a single allegation based on hearsay or interpretation of code. I also informed CalCERTS and the CEC that this matter could be settled in as little as 24 hours as a HERS Rater is REQUIRED by law to have copies of specific paperwork BEFORE inspecting. CalCERTS and the CEC have yet to take the initiative and ask that the HERS Rater provide copies of this mandated paperwork.

I assumed that my complaint was serious enough and well-documented enough to not warrant a Formal Complaint, as this would make it part of the Public Record and come at considerable cost in time and resources to the State, the ratepayer and myself. It was never my intention to make this a public spectacle but, it appears this may be impossible as my case has sat idle, while other complaints that involve lesser charges, and more recently filed, are being fast-tracked.

I would like to think that we can all agree that integrity is the cornerstone of our industry and a willful lack of enforcement yields an unlevel playing field and does a disservice to the California ratepayer. As special inspectors HERS Raters are tasked with knowing and enforcing California's Energy Code. In addition to California's Title 24, all State and Federal green building and utility rebate programs require 3rd party inspections. The integrity of each program is built upon the assumption that the Rater will provide true and accurate results. A HERS Rater signs a CF-4R [Certificate of Verification], under threat of felony perjury, that all results are true and accurate. These legal documents are required to be given to the program provider, the enforcement agency and most importantly the consumer. It is the consumer who ultimately pays the energy bills and the high costs of an inaccurate or fraudulent inspection.

On May 6, 2010 E3 NorCal filed a formal complaint with CalCERTS against another Rater (referred to hereafter as The Rater). On May 13, 2010 CalCERTS convened a meeting. We had hoped this would be an official hearing in respect to the seriousness of the charges but, CalCERTS made it clear that this meeting would be "off the record". Our request to call witnesses was denied and while we were assured they would be interviewed, they never were.

E3 NorCal presented the following evidence:

- Signed documentation showing that CF-4R's were issued for Groups containing a mixture of Package and Split Systems. CF-4R MECH-25's had been issued for these Package Units
- Signed documentation showing that Fifty-Six (56) CF-4R MECH-25's were issued although there were no accompanying CF-6R MECH-25's, this left 48 homeowners without a mandated refrigerant charge test of any kind and yet they were issued signed documentation indicating that they had
- Signed documentation and homeowner testimony showing that CF-4R's were issued for HVAC systems that were never tested

It is our contention that these alleged violations were easily proven as a clear trail of mandated paperwork must exist per the Title 24 regulations and this paperwork must be dated prior to the May 13, 2010 meeting.

Below is the response from CalCERTS to the E3 NorCal Complaint.

**Formal Response to E3 NorCal from CalCERTS Dated: August 18, 2010**  
**& Formal Rebuttal from E3 NorCal to CalCERTS Dated: September 3, 2010**

**RE: That (*The Rater*) grouped and closed Package Units with Split Systems.**

**CalCERTS Response:**

If (*The Rater*) did incorrectly group systems, it could only have been because CalCERTS, Inc. registry allowed it. I talked to our programmer and we have fixed the problem. He had made an assumption that just as grouping had been allowed between package and split systems with TXV in the 2005 codes, that the same rules applied in 2008.

**E3 Rebuttal:**

It was NEVER legal to group package and split systems. CalCERTS absolves (*The Rater*), falls on the sword and in essence says that it may have been illegally allowing these groups to be closed since the 2005 Standards went into effect.

**RE: That (*The Rater*) grouped and closed 7 groups (56 Homes) using MECH-26's and that (*The Rater*) illegally issued CF-4R MECH-25's for these groups. We asked that (*The Rater*) produce the copies of the CF-6R MECH-25's they are legally required to have. It was agreed they would be delivered to CalCERTS by the next day.**

**CalCERTS Response:**

- (*The Rater*) informed us that (*The Contractor*) **went back** and tested refrigerant charge on all the units they had done using the weigh-in method, and
- as they did them, they sent the data to (*The Rater*), who **ungrouped** everything,
- then took the new charge verification data from (*The Contractor*), **regrouped** them,
- **and then went out** and randomly sampled the new groups.
- CalCERTS, Inc. **subsequently** randomly sampled ASSOCIATED homes from some of the group

{NOTE:emphasis added}

**E3 Rebuttal:**

CalCERTS response explicitly proves our complaint: that (*The Rater*) illegally Grouped and Closed 56 homes. CalCERTS admits that it began it's investigation AFTER (*The Rater*) was allowed to Ungroup & Regroup. CalCERTS implies it's belief that performing QA on a home AFTER the Contractor and Rater have been allowed to fix their violations absolves (*The Rater*) of the legal requirements of Titles 20 & 24 and CalCERTS' own Rater Agreement.

One day after our meeting we received an admission from (*The Rater*) that the homes in question were not tested. This violation was attributed to "data input error".

A HERS Rater signs a CF-4R under threat of perjury that all statements are true and correct. Signing a CF-4R MECH-25 indicates that you have seen or have a copy of the CF-6R MECH-25.

- As of today no CF-6R MECH-25's were shown to have existed before May 13, 2010
- Witnesses with first hand knowledge of Rater violations have not been interviewed
- CalCERTS has not responded to our rebuttal detailing gross deficiencies with their findings

On December 16, 2010 I was told by the CEC's Title 24 Compliance & Enforcement department that they can only ask the Provider, CalCERTS, to look into this matter and if CalCERTS chooses to shelve the complaint then there is "not much they can do". I find this hard to believe as the CEC took great pains to announce that it had set the bar for enforcement when they decertified a CBPCA Rater in January 2010. This case involved the CBPCA, the Attorney General, the Contractors State License Board, the CEC and the Sutter County Building department. According to the February-March issue of Blueprint #94: "*The HERS rater had falsified the CF-4R, did not have a CF-6R from the contractor, and did not visit the project site to conduct the diagnostic tests prior to signing the CF-4R. These actions were cause for the rater's certification to be immediately revoked by the provider.*"

***This is a reminder to all HERS raters that it is a felony to submit falsified documents to a government agency."***

{Note: Emphasis as published}

It is unclear to me how the Energy Commission's Title 24 Compliance & Enforcement department can choose to not take a stand on this matter when the very name of their department implies that it is their responsibility to do so. Fifty-Six falsified documents were submitted to a government agency and yet the CEC refuses to act. Similarly and perhaps more egregiously; another HERS Rater brought HUNDREDS of possibly falsified documents to a meeting of the Title 24 Compliance & Enforcement department this summer. The HERS Rater has never received a response. This is shameful as it debases the value of Third-Party Verifications and defrauds the public. From the perspective of the HERS Rater in the field it appears that little more than lip-service is being paid to actual code enforcement as our concerns are routinely rebuffed or ignored by building departments, utilities, the CEC and our Providers. California's commitment to being a leader in energy efficiency should not come with an asterisk denoting that our numbers were not subject to oversight or verification and may or may not be valid.

Dear Mesdames, I sincerely thank you for your time and attention to this matter. I feel I am asking for little more than that the California Energy Commission and my HERS Provider enforce the Energy Code, equally for all HERS Raters; large and small. Every opportunity was given to end this matter quickly and quietly but, now it is my belief that it should be brought to light and resolved in a timely manner.

Respectfully,

Tommy Young  
Owner, E3 NorCal  
919 20th St  
Sacramento, CA 95811  
916-627-6486

*"One of the truest tests of integrity is its blunt refusal to be compromised"* -Chinua Achebe

CalCERTS HERS Rater #CC2005051

- New Construction
- Existing Residential
- Commercial
- Solar
- Whole House HERS II Rater

CEPE-Certified Energy Plans Examiner #R05-08-5410

CGBP-Certified Green Building Professional

LEED for Homes - Green Rater

Build It Green - GreenPoint Rater

- Existing MultifamilyHomes Rater

Associate CBPCA – Certified Building Performance Contractor Association

Infrared-Certified

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## **E3 NorCal**

## ***Energy Efficiency Experts of Northern California***

919 20<sup>th</sup> St, Sacramento California 95811 Tel: 916-627-6486 Fax: 916-307-5764 tommy@e3norcal.com

Date: January 3, 2011

The Honorable Darrell Steinberg  
State Capitol, Room 205  
Sacramento, CA 95814

RE: An appeal to protect your Capital Region constituents from fraud

Dear Mr. Steinberg,

My name is Tommy Young and I am one of your constituents. I am the owner of E3 NorCal, located in Sacramento. I am a Green Building Consultant and a special inspector for the California Energy Commission; we are commonly known as HERS Raters. My job is to enforce California's energy code and as such my company has provided more than 1000 third-party inspections and assessments for the Energy Commission, LEED, Build It Green, Habitat for Humanity, Energy Star and SMUD. We have signed more than 5000 inspection documents in the past 3 years.

As special inspectors, HERS Raters are tasked with knowing and enforcing California's energy code. In addition to California's Title 24, all State and Federal green building and utility rebate programs require 3rd party inspections. The integrity of each program is built upon the assumption that the Rater will provide true and accurate results. Inspectors must sign a CF-4R [Certificate of Verification], under threat of felony perjury, that all results are true and accurate. These legal documents are required to be given to the program provider, the enforcement agency and most importantly the consumer. It is the consumer who ultimately pays the energy bills and the high costs of an inaccurate or fraudulent inspection. I would like to think that we can all agree; integrity is the cornerstone of our industry and a willful lack of enforcement yields an unlevel playing field and does a disservice to the rate payer.

I am writing this letter because I have proof that hundreds of your constituents in the Capital Region have received illegally signed inspection reports and have been defrauded of the legally mandated inspections that ensure their systems are operating efficiently; they have not received the inspection or efficiency they paid for.

On May 13, 2010 I presented evidence to the company that oversees HERS Raters (CalCERTS). The documents detail inspector misconduct of the most egregious nature; the falsification of government documents to the detriment of the consumer. This evidence is fully documented; with times, dates, names, witnesses and code based violations deemed as felony perjury. There is not a single allegation based on hearsay or interpretation of code; these are signed documents attesting to inspections that never took place. There is no denial of this and is accepted as fact by all parties. In my possession are volumes of fraudulent documents affecting hundreds of homeowners and totaling more than five-million dollars worth of uninspected installations of new heating and air conditioning equipment. Many of these falsified inspection documents led to the release of Public Utility and ARRA stimulus funds in the form of rebates. As of today, almost eight months have passed and the Energy Commission and CalCERTS have shown little interest in resolving this case. The fraudulent inspections continue unabated.

Dear Mr. Steinberg, I sincerely thank you for your time and attention to this matter. I believe your involvement in this matter will help expedite a resolution and do a great service to your constituency. I currently have a meeting scheduled with the California Energy Commission's Title 24 Compliance & Enforcement department and Chief Counsel, Dennis Beck on January 14, 2011. I am kindly requesting a meeting with you or a member of your staff before then to help put an end to these fraudulent inspections and ensure that all homeowners are protected by verifiable code-compliance.

Respectfully,

Tommy Young  
Owner, E3 NorCal  
919 20th St  
Sacramento, CA 95811  
916-627-6486

Date: January 19, 2011

To: Michael Bachand  
President, CalCERTS

RE: List of Allegations against John Flores, Valley Duct Testing

1) Allegation: Between the days of May 4, 2010 and May 6, 2010 John Flores using only MECH-26 CF-6R's issued fifty-six CF-4R MECH-25's with no corresponding CF-6R MECH-25's. While these were subsequently ungrouped our contention stands that this infraction did occur. The CEC and CalCERTS made it perfectly clear this was not allowed and that a Rater cannot sign a CF-4R without an accompanying CF-6R.

Request: John Flores must produce copies of the 56 CF-6R's dated prior to May 4, 2010 that he used to issue his CF-4R's.

Reference: Specific References from the 2008 Residential Compliance Manual and Appendix and the CalCERTS Rater Manual. Letter to Providers, CalCERTS Press Release, BluePrint. Attachment #1

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2) Allegation: John Flores closed groups consisting of Split Systems and Package Units.

Contention: Grouping of Packages and Splits has never been allowed per the Standards and CalCERTS CF-1R, 6R and 4R and lack of knowledge of the law does not absolve you of the law.

Reference: Copies of the 2005 CalCERTS CF-1R, CF-6R and CF-4R showing that it was not possible to group TXV and Non-TXV units as a Package unit was specifically precluded from a TXV verification. If this actually had been allowed then one package unit could be duct tested to close out 6 split systems that required TXV inspections. Currently a HERS Rater or HVAC Contractor can choose to "not click" the RCT button when registering their project, but this does not absolve them from having to do it. It is the HERS Rater's responsibility to know their job. Attachment #2

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3) Allegation: John Flores closed groups with smoke tested houses. We believe that this cannot be attributed to data input error. These house are listed as Attachment #3

Request: John Flores must produce copies of the CF-6R's he used to issue his CF-4R's. These CF-6R's must show that the Duct Test used Option 1, 2 or 3.

Reference: 2008 Residential Compliance Manual Additions, Alterations, and Repairs – HVAC Page 8-19, 8-20

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#4) Allegation: Jeremy Rhodes and Andrew Santana were specifically taught how to "game" the system by Jennifer McFall who instructed them on how to place the Green reference tube in the return with the duct blaster to gain extra cfm. I believe that Andrew and Jeremy never actually did this only that they were taught how.

Request: Interview Jeremy Rhodes and Andrew Santana about this

Reference:

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5) Allegation: Bill Lilly of California Living & Energy is the current HERS Rating company for Bell Brothers.

Request: Interview for corroboration

Reference:

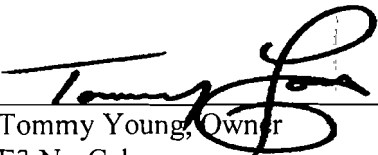
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6) Allegation: John Flores issued a CF-4R MECH-25 for [REDACTED] Sacramento CA. The homeowner is unable to close her permit as she has been unable to obtain a CF-6R MECH-25 from Bell Brothers or Valley Duct Testing

Request: John Flores must produce a copy of the CF-6R he used to issue this CF-4R.

Reference: The documentation currently in possession of CalCERTS.

By: \_\_\_\_\_



Tommy Young, Owner

E3 NorCal

A Division of Young's Retractable Screens, Inc.