

VIA EMAIL AND U.S. MAIL

July 6, 2012

Karen Douglas, Presiding Member
California Energy Commission
1516 Ninth Street, MS-31
Sacramento, CA 95814
cgraber@energy.ca.gov

Andrew McAllister, Commissioner
California Energy Commission
1516 Ninth Street, MS-31
Sacramento, CA 95814
cgraber@energy.ca.gov

Re: **Complaint and Request for Investigation of Valley Duct Testing — Docket No. 12-CAI-02**

Dear Commissioners Douglas and McAllister:

On April 13, 2012, CalCERTS, Inc. (“CalCERTS”) filed a Complaint (“Complaint”) and Request for Investigation of Jaar Sales, Inc., doing business as Valley Duct Testing (“Valley Duct Testing”). CalCERTS filed its Complaint pursuant to California Code of Regulations Title 20, Article 4, Section 1230, and supported the Complaint with ample evidence that Home Energy Rating System (“HERS”) raters working for Valley Duct Testing have systematically defrauded homeowners to the benefit of contractors. CalCERTS asked the California Energy Commission (“Commission”) to investigate Valley Duct Testing to address the harm to homeowners and, or in the alternative, to identify the proper authority that could take up the investigation to protect consumers. CalCERTS is required as an authorized HERS Provider to investigate and resolve complaints received by CalCERTS. CalCERTS filed the Complaint with the Commission to bring the allegations CalCERTS received to the Commission’s attention because CalCERTS cannot take disciplinary action against multi-rater entities like Valley Duct Testing.

On June 22, 2012, the Commission responded to the Complaint and recommended dismissing it because the Commission does not believe it has jurisdiction over Valley Duct Testing. CalCERTS finds unfortunate the Commission’s inability to address the Complaint or act to ensure consumers receive consistent, accurate and uniform ratings as specified by California Public Resources Code Section 25942. Regardless of the Commission’s ability to investigate the

Complaint further, CalCERTS believes it has through filing the Complaint acted to resolve the complaint received by CalCERTS.

The evidence presented with the Complaint identified specific homes and specific homeowners that were harmed by home energy raters employed by Valley Duct Testing. For example, an entire new development in Stockton California, built for low-income families, was fraudulently passed as Title 24 compliant when it clearly was not. The residents in this development will not benefit from the energy savings they would be receiving if the development complied with Title 24. The higher utility costs borne by these residents is not being addressed.

CalCERTS understands that the Commission's position is that it only has authority over HERS Providers and not multi-rater entities. Since the Commission finds itself unable to address this situation, surely CalCERTS has neither the resources nor authority to investigate multi-rater entities, such as Valley Duct Testing. Therefore, CalCERTS respectfully requests the Commission present this issue to the appropriate state or local entity who has the authority to address the issues raised in the Complaint against Valley Duct Testing.

CalCERTS appreciates the Commission's consideration of the Complaint and evaluation of its authority.

Very truly yours,

DOWNEY BRAND LLP



Jane E. Luckhardt

Enclosures

SLG:ln

cc: service list



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

***IN THE MATTER OF
COMPLAINT AGAINST AND REQUEST
FOR INVESTIGATION OF CALCERTS, INC.***

Docket No. 12-CAI-01
(Revised 6/21/12)

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DECLARATION OF SERVICE

I, Lois Navarrot, declare that on July 6, 2012, I served and filed copies of the Letter directed to Commissioners Douglas and McAllister, dated July 6, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at:

<http://www.energy.ca.gov/HERS/12-cai-01/index.html>.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For service to all other parties:

- Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred."

AND

For filing with the Docket Unit at the Energy Commission:

- by sending an electronic copy to the e-mail address below (preferred method); **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 12-CAI-01
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.ca.gov

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.



Lois Navarrot