STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

CALIFORNIA LIVING & ENERGY (a division of William Lilly & Associates, Inc.) and DUCT TESTERS, INC., Complainants, vs. MASCO CORPORATION and ENERGYSENSE, INC., Respondents.	Docket Number 08-CRI-01 **DECLARATION OF IVOR E. SAMSON IN SUPPORT OF RESPONDENTS' APPLICATION FOR SUBPOENA TO TAKE THE VIDEOTAPED DEPOSITION OF TOM HAMILTON**

DOCKET
08-CRI-1
DATE NOV 05 2008
RECD. NOV 05 2008

SONNENSCHEIN NATH & ROSENTHAL LLP
525 MARKET STREET, 26TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105-2708
(415) 882-5000

I, IVOR E. SAMSON, declare:

1. I am an attorney at law licensed to practice before all courts in the State of California. I am a Partner in the law firm of Sonnenschein Nath & Rosenthal LLP, attorneys of record for Respondents Masco Corporation ("Masco") and EnergySense, Inc. ("EnergySense") in this proceeding. I have personal knowledge of some of the facts set forth in this declaration and information based on knowledge and belief as to others and, if called as a witness, I could and would testify competently thereto. I submit this declaration in support of Respondents' Application for Subpoena to Take the Videotaped Deposition of Tom Hamilton.

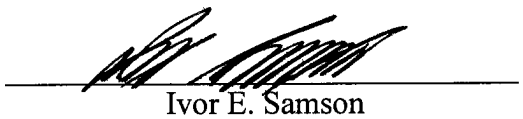
2. I am informed and believe that in January 2006, Kenneth G. Cole, Masco Associate General Counsel, and other individuals from Masco discussed with Tom Hamilton the possibility of conducting Title 24 home inspections, as part of the California Home Energy Rating System ("HERS") Program, through EnergySense as a subsidiary. Following this discussion, Mr. Hamilton expressed approval of a proposed organizational structure in which EnergySense would operate independently from the Masco subsidiaries engaged in HERS-related home installations.

3. I am also informed and believe that at some point in mid-2006, California Living & Energy made an informal complaint to the California Energy Commission ("CEC") about Respondents' alleged violation of certain conflict of interest provisions related to the HERS Program. I am further informed and believe that on or about July 6, 2006, Mr. Hamilton had a telephone conversation with CEC staff members, Bill Staack and Tav Cummins, about California Living's allegations and outlined EnergySense's compliance with the Title 24 Regulations.

4. On September 10, 2008, I met with Mr. Hamilton who described his involvement and the advice that he gave to EnergySense as CHEERS Executive Director in 2006. In early October, 2008, I contacted Mr. Hamilton by telephone and asked if he would be willing to testify on EnergySense's behalf in this proceeding. Mr. Hamilton said that he would be pleased to do so "subject to his management's approval." On October 30, I again called Mr. Hamilton to confirm that he would be able to testify. Instead, he informed me that Complainant California Living & Energy had, within the last week, hired his consulting firm, ICF International. As a result, Mr. Hamilton said that there was a relationship "conflict of interest" such that he could no longer voluntarily testify in this matter.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed this 5th day of November, 2008, at San Francisco, California.



Ivor E. Samson

27311574\V-2

SONNENSCHEIN NATH & ROSENTHAL LLP
525 MARKET STREET, 26TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105-2708
(415) 882-5000

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT

COMMISSION OF THE STATE OF CALIFORNIA

Complaint / Request for Investigation
Regarding EnergySense / MASCO

DOCKET NO. 08-CRI-01
Proof of Service List

INSTRUCTIONS: All parties shall (1) file a printed, original signed document plus 12 copies OR file one original signed document and email the document to the Docket address below, AND (2) all parties shall also send a printed OR electronic copy of the document, plus a proof of declaration, to each of the entities and individuals on the Proof of Service List:

CALIFORNIA ENERGY COMMISSION Attn: DOCKET NO. 08-CRI-01 1516 Ninth Street, MS-4 Sacramento, CA 95814-5512 docket@energy.state.ca.us	
California Living & Energy Attn: Bill Lilly, President 3015 Dale Court Ceres, CA 95307	Duct Testers, Inc. Attn: Dave Hegarty P.O. Box 266 Ripon, CA 95366
Carol A. Davis CHEERS Legal Counsel 3009 Palos Verdes Drive West Palos Verdes Estates, CA 90274	Energy Inspectors Attn: Galo LeBron, CEO 1036 Commerce Street, Suite B San Marco, CA 92078
Certified Energy Consulting John Richau, HERS Rater 4782 N. Fruit Avenue Fresno, CA 93705	ConSol Attn: Mike Hodgson 7407 Tam O'Shanter Drive Stockton, CA 95210-3370
California Certified Energy Rating & Testing Services (CalCERTS) Attn: Mike Bachand 31 Natoma Street, Suite 120 Folsom, CA 95630	California Building Performance Contractors Association (CBPCA) Attn: Randel Riedel 1000 Broadway, Suite 410 Oakland, CA 94607
California Home Energy Efficiency Rating System (CHEERS) Attn: Robert Scott 20422 Beach Boulevard, Suite 235 Huntington Beach, CA 92648	

SONNENSCHEIN NATH & ROSENTHAL LLP
525 MARKET STREET, 26TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105
(415) 882-5000

ENERGY COMMISSION

Arthur H. Rosenfeld, Ph.D., Commissioner
Presiding Committee Member
arosenfe@energy.state.ca.us

Jackalyne Pfannenstiel, Chair
Associate Committee Member
jpfannen@energy.state.ca.us
cgraber@energy.state.ca.us

Dennis Beck
Staff Attorney
dbeck@energy.state.ca.us

Public Adviser
pao@energy.state.ca.us

DECLARATION OF SERVICE

I, Nancy E. Jordan, deposited copies of the attached **DECLARATION OF IVOR E. SAMSON IN SUPPORT OF RESPONDENTS' APPLICATION FOR SUBPOENA TO TAKE THE VIDEOTAPED DEPOSITION OF TOM HAMILTON** in the United States mail on **November 5, 2008**, at San Francisco, CA, with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, Title 20, Sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

Nancy E. Jordan
NANCY E. JORDAN

27311246\V-3

SONNENSCHEIN NATH & ROSENTHAL LLP
525 MARKET STREET, 26TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105
(415) 882-5000