

DOCKET

08-CRI-1

DATE MAR 24 2009

RECD. MAR 27 2009

1 STEVEN H. FRANKEL (State Bar No. 171919)
2 SONNENSCHN NATH & ROSENTHAL LLP
3 525 Market Street, 26th Floor
4 San Francisco, CA 94105-2708
5 Telephone: (415) 882-5000
6 Facsimile: (415) 882-0300

7 BRETT A. CRAWFORD
8 SONNENSCHN NATH & ROSENTHAL LLP
9 1301 K Street, N.W.
10 Suite 600, East Tower
11 Washington, DC 20005-3364
12 Telephone: (202) 408-6400
13 Facsimile: (202) 408-6399

14 **STATE OF CALIFORNIA**
15 **ENERGY RESOURCES CONSERVATION**
16 **AND DEVELOPMENT COMMISSION**

17 CALIFORNIA LIVING & ENERGY (a Docket Number 08-CRI-01
18 division of William Lilly & Associates, Inc.)
19 and DUCT TESTERS, INC.,

20 Complainants, **Affidavit of Steven Heim**

21 vs.

22 MASCO CORPORATION and
23 ENERGYSSENSE, INC.,
24 Respondents.

25 Being first duly sworn under oath, Steven Heim deposes and states as follows:

26 1. I am the Regional Manager for Western Insulation, L.P. I have personal
27 knowledge of all facts set forth below. In my capacity as Regional Manager for Western
28 Insulation, L.P., I am responsible for overseeing the management, operations and
performance of the company.

2. Western Insulation, L.P. is a California limited partnership of which
Western Insulation Holdings, LLC is the managing general partner.

3. Western Insulation, L.P. installs insulation in California homes.

1 4. Western Insulation, L.P. does not install ductwork in California homes,
2 nor any other improvement (besides insulation) that is subject to Title 24 HERS field
3 verification or testing.

4 5. Western Insulation, L.P. does not receive direction from Masco
5 Corporation regarding insulation installation work or HERS testing governed by Title 24
6 HERS requirements.

7 6. Western Insulation, L.P. has provided no loans, cash advances or any
8 other financing to EnergySense, Inc.

9 7. Western Insulation, L.P. provides invoicing and payment collection
10 services for EnergySense, Inc. in exchange for the ability to offer a more comprehensive
11 set of services to builders.

12 8. Bids submitted to builders by Western Insulation, L.P. for installation and
13 for field verification and diagnostic testing by HERS raters employed by EnergySense,
14 Inc. are generally evaluated by the builders on a standalone basis, allowing the builders to
15 pick from a variety of service options.

16 9. Payments received by Western Insulation, L.P. from builders for field
17 verification and testing services performed by a HERS rater employed by EnergySense
18 are passed through to EnergySense in their entirety without any administrative or other
19 charge subtracted from the total payment by Western Insulation, L.P.

20 I swear or affirm, under penalty of perjury under the laws of the State of the
21 California, that all facts set forth herein are true and correct.

22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FURTHER AFFIANT SAYETH NOT.

Executed this 24th day of March, 2009.

Steven P. Heim

Steven Heim

State of))

County of)

On March 24, 2009, before me, Leslye Soble, Notary Public, personally appeared Steven Heim, who provided to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity/ies, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand and official seal.

Leslye Soble

(Seal)



Notary Public

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

PROOF OF SERVICE

California Living & Energy v. MASCO Corporation
Docket No. 08-CRI-01

I, Diane Donner, hereby declare:

I am employed in the City and County of San Francisco, California in the office of a member of the bar of this court and at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Sonnenschein Nath & Rosenthal, 525 Market Street, 26th Floor, San Francisco, California 94105.

On March 27, 2009, I served the following documents, filed electronically with the State of California Energy Resources Conservation and Development Commission, and described as

1. **Affidavit of David Bell**
2. **Affidavit of Jim Brewer**
3. **Affidavit of Israel Calleros**
4. **Affidavit of Dan Calton**
5. **Affidavit of Mark Curry**
6. **Affidavit of Richard A. Davenport**
7. **Affidavit of Steven Heim**
8. **Affidavit of Jaime Padron**
9. **Affidavit of Richard Smith**
10. **Affidavit of Steve Weber**
11. **Affidavit of Sharon Werner**
12. **Affidavit of Timothy Williams**

on the interested parties in this action by placing a true copy thereof, on the above date, enclosed in a sealed envelope, following the ordinary business practice of Sonnenschein Nath & Rosenthal LLP, addressed as follows:

Brett L. Dickerson (via e-mail also)	Dave Hegarty
Gianelli & Associates PLC	Duct Testers, Inc.
1014 16th Street	P.O. Box 266
P.O. Box 3212	Ripon, CA 95366
Modesto, CA 95353	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Carol A. Davis
CHEERS Legal Counsel
3009 Palos Verdes Drive West
Palos Verdes Estates, CA 90274

Galo LeBron, CEO
Energy Inspectors
1036 Commerce Street, Suite B
San Marco, CA 93078

John Richau, HERS Rater
Certified Energy Consulting
4782 N. Fruit Avenue
Fresno, CA 93705

Mike Hodgson
ConSol
7407 Tam O'Shanter Drive
Stockton, CA 95210-3370

Mike Bachand
California Certified Energy Rating &
Testing Services (CalCERTS)
31 Natoma Street, Suite 120
Folsom, CA 95630

Randel Riedel
California Building Performance
Contractors Association (CBPCA)
1000 Broadway, Suite 410
Oakland, CA 94607

Robert Scott
California Home Energy Efficiency
Rating System (CHEERS)
20422 Beach Boulevard
Huntington Beach, CA 92648

Bill Lilly, President
California Living & Energy
3015 Dale Court
Ceres, CA 95307

- U.S. MAIL: I am personally and readily familiar with the business practice of Sonnenschein Nath & Rosenthal for collection and processing of correspondence for mailing with the United States Postal Service, pursuant to which mail placed for collection at designated stations in the ordinary course of business is deposited the same day, proper postage prepaid, with the United States Postal Service.
- FACSIMILE TRANSMISSION: I caused such document to be sent by facsimile transmission at the above-listed fax number for the party.
- FEDERAL EXPRESS: I served the within document in a sealed Federal Express envelope with delivery fees provided for and deposited in a facility regularly maintained by Federal Express.
- HAND DELIVERY: I caused such document to be served by hand delivery.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 27, 2009, at San Francisco, California.



DIANE VIVIAN DONNER

[27282008]

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