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STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Luigi Mario Delucchi, President
Construction Funds Control Services, Inc.
1330 Arnold Drive, Suite 242
Martinez, CA 94553

DESIST AND REFRAIN ORDER
(For violations of Financial Code sections 17200 & 17403)

The California Corporations Commissioner finds that:

1. Construction Funds Control Services, Inc. ("Construction Funds") was incorporated in California in 2001 and conducts business at 1330 Arnold Drive, Suite 242, Martinez, CA 94553. Luigi Mario Delucchi ("Luigi Delucchi") is the President of Construction Funds.
2. Construction Funds has engaged in the business of an escrow agent as a joint control agent disbursing construction funds involving improvements to real property. Specifically, Construction Funds enters into a contract with a contractor, owner/developer, surety/bonding company or other involved in the construction of real property improvements, and on behalf of that client confirms whether improvements have been performed and arranges for distribution of payments for the improvements from an account which it controls created for that purpose.
3. Construction Funds has advertised its joint control agent business over the internet at www.cfcsinc.
4. Construction Funds has not been issued a license by the Commissioner authorizing it to engage in business as an escrow agent under the California Escrow Law. (Financial Code, §§ 17000 et seq.).

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California Financial Code section 17200 provides:

It shall be unlawful for any person to engage in business as an escrow agent within this State except by means of a corporation duly organized for that purpose licensed by the commissioner as an escrow agent.

According to Financial Code section 17004 “escrow agent” means “any person engaged in the business of receiving escrows for deposit or delivery. Financial Code section 17005.6 provides that “escrow agent” includes joint control agents, and Financial Code section 17005.1 provides in pertinent part that “‘joint control agent’ means a person engaging in the business of receiving money or other property for disbursal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in the construction of improvements upon real property....”

Financial Code section 17403 provides:

(a) No person subject to this division shall issue, circulate, or publish any advertisement by any means of communication, or make use of or circulate any letterheads, billheads, blank notes, blank receipts, blank escrow instructions, certificates, circulars, or any written, printed, partially written or printed paper containing any fictitious or corporate name or other words indicating that the person is in the escrow business, unless the person is a licensed escrow agent.

(b) If, in the opinion of the commissioner, any person, has violated this section, the commissioner may order that person to desist and refrain from that violation. If, within 30 days after the order is served, a request for a hearing is filed in writing and the hearing is not held within 60 days thereafter, the order is rescinded.

Financial Code section 17416 provides:

Whenever in the opinion of the commissioner any person, except as named in Section 17006, is engaged, either actually or through subterfuge, in the business of receiving escrows for deposit or delivery as defined in this division, without a license from the commissioner, the commissioner may order that person to desist and refrain from engaging in that business. If, within 30 days after such an order is served, a request for a hearing is filed in writing and the hearing is not held within 60 days thereafter, the order is rescinded.

By reason of the foregoing, Luigi Delucchi and Construction Funds have engaged in the business of an escrow agent in violation of Financial Code Section 17200 and have advertised on the internet that Construction Funds is in the escrow agent business as a joint control agent in violation of Financial Code Section 17403.

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Pursuant to Financial Code sections 17403 and 17416, Luigi Mario Delucchi and Construction Funds Control Services, Inc. are hereby ordered to desist and refrain from engaging in the business of a joint control agent without first obtaining an escrow agent license from the Commissioner, or otherwise being exempt, and from issuing, circulating, or publishing any advertisement by any means of communication, or making use of or circulating any letterheads, billheads, blank notes, blank receipts, blank escrow instructions, certificates, circulars, or any written, printed, partially written or printed paper containing any name or other words indicating that they are in the escrow agent or joint control agent business.

This Order is necessary, in the public interest, for the protection of consumers and is consistent with the purposes, policies and provisions of the California Escrow Law. This order shall remain in full force and effect until further order of the Commissioner.

Dated: December 1, 2011
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Deputy Commissioner
Enforcement Division