

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Corporations Counsel
4 Department of Corporations
320 West 4th Street, Ste. 750
5 Los Angeles, California 90013-2344
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6 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10
11 In the Matter of the Accusation of THE) Case No.: 963-2099
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) ACCUSATION
13)
Complainant,)
14)
15 vs.)
16 ANTHONY J. GUIFFRE,)
17 Respondent.)
18 _____)

19 The Complainant is informed and believes, and based upon such information and belief,
20 alleges and charges Respondent as follows:

21 I

22 Respondent Anthony J. Guiffre ("Guiffre") was at all times relevant herein, the escrow
23 manager of LGM Escrow Services, Inc. ("LGM"), an escrow agent licensed by the California
24 Corporations Commissioner ("Commissioner" or "Complainant") pursuant to the Escrow Law of the
25 State of California (California Financial Code Section 17000 et seq.). LGM had its principal place
26 of business located at 450 N. Brand Boulevard, Suite 950, Glendale, California 91203.
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II

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2 On or about March 30, 2009, the Department of Corporations (“Department”) received a
3 complaint regarding an escrow handled at LGM by Guiffre in which the complainant was a junior
4 lien holder on the real property that was the subject of the escrow. Based upon the complaint, the
5 Commissioner, by and through his staff, commenced an investigation to review the escrow(s) that
6 were the subject of the complaint, i.e., escrow numbers 008950-TG and 009034-TG. Both escrow
7 numbers 008950-TG and 009034-TG concerned the sale of the real property known as 1605
8 Viewmont Drive, Los Angeles, California (“Viewmont property”).

9 The investigation disclosed that Guiffre violated Financial Code section 17414(a)(2) by
10 preparing and disseminating a false estimated closing statement. The estimated closing statement
11 was false in that it (i) set forth an escrow number for a non-existent escrow and/or for an escrow that
12 was no longer open; (ii) set forth the total consideration at \$1,845,000.00 when an escrow had
13 already been opened to sell the property for \$3,250,000.00; and (iii) set forth payoff amounts for the
14 other lien holders that were far less than had been agreed to as payoffs by such lien holders as of the
15 date of the estimated closing statement as discussed in more detail below.

16 On or about September 4, 2008, a Preliminary Title Report was issued on the Viewmont
17 property by Chicago Title Company in regards to an order placed by Guiffre for escrow number
18 008950-TG. The Preliminary Title Report disclosed five deeds of trust recorded against the
19 property. The deeds of trust were as follows: first deed of trust dated December 28, 2006 in the
20 original amount of \$1,995,000.00; second deed of trust dated December 28, 2006 in the original
21 amount of \$285,000.00; third deed of trust dated December 27, 2006 in the original amount of
22 \$250,000.00; fourth deed of trust dated December 29, 2006 in the original amount of \$184,000.00
23 (sic); and fifth deed of trust dated December 29, 2006 in the original amount of \$60,000.00. The
24 Preliminary Title Report also disclosed that the first and third deeds of trust had recorded notices of
25 default, with the first deed of trust also having recorded a notice of trustee’s sale. According to
26 LGM, no escrow instructions were ever prepared for escrow number 008950-TG.

27 In or about mid-September 2008, Guiffre, under the auspices of escrow number 008950-TG,
28 sent or caused to be sent a Request for Demand to at least the third, fourth and fifth trust deed

1 holders on the Viewmont property. In or about September 18 through September 23, 2008, the
2 third, fourth and fifth trust deed holders submitted their Beneficiary Demands to LGM in the
3 following amounts: third trust deed holder for \$360,589.11; fourth trust deed holder for \$194,566.51;
4 and the fifth trust deed holder for \$70,672.60.

5 Subsequently, on or about October 6, 2008, Guiffre opened LGM escrow number 009034-
6 TG on the Viewmont property. Pursuant to the initial escrow instructions dated October 6, 2008, the
7 purchase price was \$3,250,000.00. One set of initial escrow instructions dated October 6, 2008 and
8 signed by the seller set forth that the buyer would obtain a loan in the amount of \$2,275,000.00 as
9 part of the consideration. A further set of initial escrow instructions dated October 6, 2008 and
10 signed by the buyer set forth that the buyer would obtain a loan in the amount of \$1,560,000.00. The
11 actual loan obtained by the buyer in escrow number 009034-TG was for \$1,560,000.00. The buyer's
12 deposits into escrow number 009034-TG were an initial deposit of \$97,500.00 and a further deposit
13 of \$1,600,779.40 for a total paid into escrow and/or title of \$3,258,279.40.¹

14 On or about October 20, 2008, the buyer in escrow number 009034-TG signed amended
15 escrow instructions authorizing the release of \$50,000.00 of his initial escrow deposit to be paid to
16 the third trust deed holder on the subject property to be applied towards that debt in order to stop the
17 foreclosure that the third trust deed holder had commenced on the subject property. This \$50,000.00
18 payment to the third trust deed holder, was paid on or about December 1, 2008, and was credited
19 towards the third trust deed payoff at the close of escrow.

20 It appears from the escrow file that two companies were hired by the seller to negotiate
21 reduced payoffs on the trust deeds. Collateral Relief Servicing, an affiliate of LGM, was hired to
22 negotiate with the lender who held both the first and second trust deeds, and Celestina Uriarte of DT
23 Investors who was hired to deal with the remaining trust deed holders. On or about November 30,
24 2008, through these negotiations, the third trust deed holder agreed to accept \$180,000.00 as
25 payment in full, to include the December 1, 2008 payment of \$50,000.00 discussed above. The
26

27 ¹ Loan proceeds are typically funded into escrow through the title company, which acts as a subagent for the escrow
28 agent.

1 agreement between the seller of the Viewmont property and the third trust deed holder references no
2 specific escrow number. However, a further communication from the third trust deed holder to LGM
3 references the new escrow number, 009034-TG.

4 On or about December 1, 2008, the first and second trust deed holder submitted its Payoff
5 Demand Statements to Guiffre regarding the Viewmont property. As of December 1, 2008, the first
6 and second trust deed holder was demanding payment in the amount of \$2,274,126.79 on its first
7 trust deed and \$317,882.01 on its second trust deed. These figures were good through December 15,
8 2008.

9 Also, on or about December 1, 2008, the fourth trust deed holder agreed to accept \$37,000.00
10 as payment in full on the condition that he was provided an estimated HUD (closing statement) for
11 review. On or about December 4, 2008, an estimated closing statement was prepared by Guiffre and
12 sent to Uriate, who then forwarded the estimated closing statement to the fourth trust deed holder.
13 The December 4, 2008 estimated closing statement prepared by Guiffre stated that it was for escrow
14 number 008950-TG, even though the Viewmont property was being sold through escrow number
15 009034-TG. The estimated closing statement also represented that the payoffs for the various trust
16 deeds were: \$1,722,277.96 for the first; \$5,000.00 for the second; \$40,000.00 for the third;
17 \$37,000.00 for the fourth; and \$15,000.00 for the fifth. Guiffre prepared this estimated closing
18 statement for dissemination notwithstanding that the pending payoff demands from the holder of the
19 first and second trust deeds were for \$2,274,126.79, and \$317,882.01, respectively,² and that there
20 was a written agreement for the payoff of the second trust deed holder in the amount of \$180,000.00.
21 Thereafter, on or about December 5, 2008, the fourth trust deed holder executed a Substitution of
22 Trustee and Full Reconveyance releasing his interest in the Viewmont property for the sum of
23 \$37,000.00.

24 On or about December 30, 2008, escrow number 009034-TG closed. The following amounts
25 were paid to the trust deed holders at close of escrow: \$2,277,319.21 for the first; \$318,247.37 for the
26 second; \$180,000.00 for the third; \$37,000.00 for the fourth; \$15,000.00 for the fifth, and
27

28 ² And were paid in full at close of in the respective amounts of \$2,277,319.21 and \$318,247.37.

1 \$250,000.00 for a sixth, which trust deed debt was originated after escrow opened.

2 III

3 California Financial Code section 17414 (a)(2) provides:

4 (a) It is a violation for any person subject to this division or
5 any director, stockholder, trustee, officer, agent, or employee of
6 any such person to do any of the following:

7 (2) Knowingly or recklessly make or cause to be made any misstatement
8 or omission to state a material fact, orally or in writing, in escrow books, accounts,
9 files, exhibits, statements, or any other document pertaining to an escrow
10 or escrow affairs.

11 IV

12 California Financial Code section 17423 provides in pertinent part:

13 (a) The commissioner may, after appropriate notice and opportunity
14 for hearing, by order, . . . bar from any position of employment, management,
15 or control any escrow agent, or any other person, if the commissioner finds
16 either of the following:

17 (1) That the . . . bar is in the public interest and that the person
18 has committed or made a violation of this division or rule or order of
19 the commissioner, which violation was either known or should have
20 been known by the person committing or causing it or has made material
21 damage to the escrow agent or to the public.

22 V

23 Complainant finds that, by reason of the foregoing, Respondent Guiffre has violated
24 Financial Code section 17414(a)(2), and it is in the best interests of the public to bar Respondent
25 Guiffre from any position of employment, management or control of any escrow agent.

26 WHEREFORE, IT IS PRAYED that Respondent Guiffre be barred from any position of
27 employment, management or control of any escrow agent.

28 Dated: March 29, 2010
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Judy L. Hartley
Senior Corporations Counsel