

Guaranty Financial Group Inc.
Form SC 13D/A
October 02, 2008

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

SCHEDULE 13D/A

(Rule 13d-102)

**INFORMATION TO BE INCLUDED IN STATEMENTS FILED PURSUANT TO RULE 13d-1(a)
AND AMENDMENTS THERETO FILED PURSUANT TO RULE 13d-2(a)**

**Under the Securities Exchange Act of 1934
(Amendment No. 3)***

GUARANTY FINANCIAL GROUP, INC.

(Name of Issuer)

Common Stock, \$1.00 par value

(Title of Class of Securities)

40108N106

(CUSIP Number)

**Michael G. Smith
c/o TRT Holdings, Inc.
600 East Las Colinas Blvd.
Suite 1900
Irving, Texas 75039
(214) 283-8619**

(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

October 1, 2008

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(Date of Event Which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box.

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be filed for the purpose of Section 18 of the Securities Exchange Act of 1934 (Act) or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

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1. Names of Reporting Persons
I.R.S. Identification Nos. of above persons (entities only)
TRT Financial Holdings, LLC
26-2685852
2. Check the Appropriate Box if a Member of a Group (See Instructions)
(a)
(b)
3. SEC Use Only
4. Source of Funds (See Instructions)
WC
5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)
6. Citizenship or Place of Organization
Delaware
7. Sole Voting Power
-0-
8. Shared Voting Power
21,699,047(1)
9. Sole Dispositive Power
-0-
10. Shared Dispositive Power
21,699,047(1)
11. Aggregate Amount Beneficially Owned by Each Reporting Person
21,699,047(1)
12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)
13. Percent of Class Represented by Amount in Row (11)
19.94%
14. Type of Reporting Person (See Instructions)
00

(1) See Item 5.

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1. Names of Reporting Persons
I.R.S. Identification Nos. of above persons (entities only)
Robert B. Rowling
2. Check the Appropriate Box if a Member of a Group (See Instructions)
(a)
(b)
3. SEC Use Only
4. Source of Funds (See Instructions)
N/A
5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)
6. Citizenship or Place of Organization
United States
- | | | |
|---|-----|---|
| | 7. | Sole Voting Power
-0- |
| Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With | 8. | Shared Voting Power
21,699,047(1) |
| | 9. | Sole Dispositive Power
-0- |
| | 10. | Shared Dispositive Power
21,699,047(1) |
11. Aggregate Amount Beneficially Owned by Each Reporting Person
21,699,047(1)
12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)
13. Percent of Class Represented by Amount in Row (11)
19.94%
14. Type of Reporting Person (See Instructions)
IN

(1) See Item 5.

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Explanatory Note

This Amendment No. 3 (this Amendment) amends and restates the Schedule 13D initially filed on June 9, 2008 (the Original Filing), as previously amended by Amendment No. 1 to the Original Filing, filed on July 23, 2008 (the Amendment No. 1) and Amendment No. 2 to the Original Filing, filed on August 26, 2008 (the Amendment No. 2), and relating to the Common Shares, par value \$1.00 (the Common Shares), of Guaranty Financial Group, Inc. (the Issuer). Information reported in the Original Filing, as amended by Amendment No. 1 and Amendment No. 2, remains in effect except to the extent that it is amended, restated or superseded by information contained in this Amendment. Capitalized terms used but not defined in this Amendment have the respective meanings set forth in the Original Filing, Amendment No. 1 and Amendment No. 2, as applicable.

Item 3. Source and Amount of Funds or Other Consideration

The acquisition by TRT of 683,502 newly-issued Common Shares, pursuant to the Top-Off Right, for an aggregate purchase price of \$3,533,705.34, or \$5.17 per share, was accomplished using the working capital of TRT.

Item 4. Purpose of Transaction

The purpose of the acquisition of the Common Shares is to pursue a passive investment in the Issuer. The acquisition of the Common Shares was a result of the mandatory conversion of 1,230,204 shares of Preferred Stock held by TRT, on their terms, into 12,641,713 Common Shares (including the payment in-kind of the accrued dividend on the Preferred Stock in the form of 339,672 Common Shares) together with TRT's satisfaction of its Top-Off Right obligations under the Investment Agreement, as described in greater detail under Item 5, below.

The Reporting Persons have, except as otherwise set forth below or as described under Item 6, no present plans or proposals that relate to or that would result in any of the following actions:

- (a) The acquisition by any person of additional securities of the Issuer, or the disposition of securities of the Issuer;
- (b) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the Issuer or any of its subsidiaries;
- (c) A sale or transfer of a material amount of assets of the Issuer or any of its subsidiaries;
- (d) Any change in the present board of directors or management of the Issuer, including any plans or proposals to change the number or term of directors or to fill any existing vacancies on the board;

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- (e) Any material change in the present capitalization or dividend policy of the Issuer;
- (f) Any other material change in the Issuer's business or corporate structure;
- (g) Changes in the Issuer's charter, bylaws or instruments corresponding thereto or other actions which may impede the acquisition of control of the Issuer by any person;

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- (h) Causing a class of securities of the Issuer to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association;
- (i) A class of equity securities of the Issuer becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Act; or
- (j) Any action similar to any of those enumerated above.

Under Section 9(c) of the Investment Agreement by and between TRT and the Issuer dated May 26, 2008 (the "Investment Agreement"), TRT will, for so long as it beneficially owns at least 10% of the outstanding Common Shares, have the right to appoint a representative to the Issuer's Board of Directors. The Issuer shall be required to recommend to its stockholders the election of this board representative at the Issuer's annual meeting, subject to applicable law. A copy of the Investment Agreement was filed by the Issuer with the SEC as Exhibit 10.1 to the Issuer's Current Report on Form 8-K of May 27, 2008, and is incorporated herein by reference. TRT designated Mr. Rowling as its board representative and Mr. Rowling was appointed to the Board of Directors on May 30, 2008.

Additionally, under the terms of the Investment Agreement, TRT has the right to participate pro rata in any subsequent offerings by the Issuer of Common Shares or securities convertible into Common Shares. TRT has, as of the date of this Amendment, respectfully exercised its right to participate in a sale of convertible preferred stock of the Issuer and assigned its participation right to Rowling Family Properties, Ltd. ("RFP"), an entity affiliated with Mr. Rowling, as to a sale of units comprised of subordinated debt instruments issued by the Issuer's subsidiary and convertible preferred stock, in which RFP elected to participate. On September 11, 2008, RFP transferred the shares of Preferred Stock it had acquired in this transaction to TRT.

In connection with the acquisition of the Common Shares of the Issuer, the Reporting Persons and certain of their affiliates entered into an Agreement for Rebuttal of Rebuttable Determination of Control (the "Rebuttal of Control Agreement") with the Office of Thrift Supervision (the "OTS"), substantially in the form required by OTS regulations at 12 C.F.R. Part 574. Under the Rebuttal of Control Agreement, unless otherwise approved by the OTS, the Reporting Persons and certain of their affiliates are obligated not to:

- Seek or accept representation of more than one member of the board directors of the Issuer's principal savings bank subsidiary, Guaranty Bank ("Guaranty Bank") or any holding company thereof;
- Have or seek to have any representative serve as the chairman of the board of directors, or chairman of an executive or similar committee of Guaranty Bank and any holding company thereof's board of directors or as president or chief executive officer of Guaranty Bank and any holding company thereof;

- Engage in any intercompany transaction with the Issuer or the Issuer's affiliates, except that the Issuer and TRT have entered into an agreement whereby TRT has the right to participate in a rights offering along with other shareholders of the Issuer and to purchase convertible preferred shares of the Issuer;

- Propose a director in opposition to nominees proposed by the management of Guaranty Bank and any holding company thereof for the board of directors of Guaranty Bank and any holding company thereof, other than as permitted above;

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- Solicit proxies or participate in any solicitation of proxies with respect to any matter presented to the stockholders of the Issuer other than in support of, or in opposition to, a solicitation conducted on behalf of management of the Issuer;

- Do any of the following, except as necessary solely in connection with the performance of duties by TRT's representative as a member of the Issuer's board of directors:
 - (a) Influence or attempt to influence in any respect the loan and credit decisions or policies of the Issuer, the pricing of services, any personnel decisions, the location of any offices, branching, the hours of operation or similar activities of the Issuer;

 - (b) Influence or attempt to influence the dividend policies and practices of the Issuer or any decisions or policies of the Issuer as to the offering or exchange of any securities;

 - (c) Seek to amend, or otherwise take action to change, the bylaws, articles of incorporation, or charter of the Issuer;

 - (d) Exercise, or attempt to exercise, directly or indirectly, control or a controlling influence over the management, policies or business operations of the Issuer; or

 - (e) Seek or accept access to any non-public information concerning the Issuer;

- Assist, aid or abet any of the Issuer's affiliates or associates that are not parties to the Rebuttal of Control Agreement to act, or act in concert with any person or company, in a manner which is inconsistent with the terms of the Rebuttal of Control Agreement or which constitutes an attempt to evade the requirements therein; or

- Acquire any additional shares of Voting Stock (as defined in the OTS Regulations) of the Issuer in excess of the shares contemplated by the Rebuttal of Control Agreement without first making any required filing or notice under the Change of Control Act or the Savings and Loan Holding Company Act and receiving either approval of the acquisition under the Savings and Loan Holding Company Act or clearance of any notice filed under the Change of Control Act in accordance with the OTS Regulations;

Subject to the foregoing, the Reporting Persons intend to continue to evaluate the Issuer's business, prospects and financial condition, the market for the Common Shares, monetary and stock market conditions and other further developments. As a part of such evaluation, one or both of the Reporting Persons, or their respective agents, may participate in meetings or hold discussions with the Issuer's management, other stockholders and other persons, in which discussions the Reporting Persons or their agents may express their views with respect to the operations, assets, capital structure or ownership of the Issuer, and possible changes therein as a means of enhancing shareholder value. Such expression of views may relate to one or more of the transactions specified in clauses (a) through (j) of Item 4 of the Schedule 13D form.

Item 5. Interest in Securities of the Issuer

(a) Pursuant to Rule 13d-3(a), at the close of business on October 1, 2008, each of the Reporting Persons may be deemed to be the beneficial owner of 21,699,047 of the Common Shares, which constitute approximately 19.94% of the 108,840,494 Common Shares issued and outstanding as of

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the close of business on October 1, 2008. TRT directly owns the Common Shares of the Issuer. Mr. Rowling indirectly owns such Common Shares due to his ownership of all of the voting membership interests of TRT.

(b) Each of the Reporting Persons, either directly or indirectly, has the power to vote or to direct the vote and to dispose or to direct the disposition of the Common Shares reported in Item 5(a).

(c) The exclusive transactions in the Issuer's Common Shares by the Reporting Persons in the 60 days prior to the filing of this Amendment were (1) the sale of 683,502 Common Shares by the Issuer to TRT for an aggregate purchase price of \$3,533,705.34, or \$5.17 per share, on October 1, 2008 (the Top-Off Transaction), (2) the conversion of 1,230,204 shares of the Issuer's Preferred Stock into 12,641,713 Common Shares (including the payment in kind of the accrued dividend on the Preferred Stock in the form of 339,672 Common Shares) and (3) the open market purchases of an aggregate 950,500 Common Shares by TRT on August 20, 21 and 22, 2008, as described in this Item 5(c) of the Amendment No. 2. The Top-Off Transaction was consummated in satisfaction of the Top-Off Right that required the Issuer to sell and TRT to purchase a sufficient number of equity securities of the Company such that after the consummation of the Top-Off Right, TRT would hold 19.9% of the Common Shares on a fully diluted basis. The Top-Off Transaction was effected by means of a private placement.

(d) Not applicable.

(e) Not applicable.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

By virtue of being the sole holder of the voting membership interests of TRT, Mr. Rowling may be deemed to have the power to direct the vote or disposition of the Common Shares reported in Item 5(a).

The descriptions of the agreements set forth in Item 4 are hereby incorporated by reference into this Item 6.

Otherwise, there are no contracts, arrangements, understandings or relationships among the Reporting Persons and between the Reporting Persons and any other Person with respect to securities of the Issuer.

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SIGNATURE

After reasonable inquiry and to the best of the knowledge and belief of the undersigned persons, such persons certify that the information set forth in this statement is true, complete and correct.

Dated as of: October 2, 2008

For TRT Financial Holdings, LLC

By: /s/ Robert B. Rowling
Name: Robert B. Rowling
Title: Managing Member

Name: /s/ Robert B. Rowling
Robert B. Rowling

ATTENTION

Intentional misstatements or omissions of fact constitute Federal Criminal Violations (See 18 U.S.C. 1001).