

1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105  
4 Telephone: (213) 576-6982 (office)

**FILED**  
JUL 13 2007  
DEPARTMENT OF REAL ESTATE  
*K. Niederholtz*

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8  
9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

11 In the Matter of the Accusation of )	No. H-33758 LA
12 FIRST CAPITAL FINANCIAL )	
13 RESOURCES INC. and JACQUELINE )	<u>STIPULATION</u>
14 BEOGLYAN BALYAN, individually and )	<u>AND</u>
15 as designated officer of )	<u>AGREEMENT</u>
16 First Capital Financial )	
17 Resources Inc. )	
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18 It is hereby stipulated by and between Respondents  
19 FIRST CAPITAL FINANCIAL RESOURCES INC. a corporate real estate  
20 broker and JACQUELINE BEOGLYAN BALYAN, individually and as  
21 designated officer of First Capital Financial Resources Inc.  
22 (sometimes collectively referred to as "Respondents"),  
23 represented by Holly J. Fujie, Esq. of Buchalter Nemer, A  
24 Professional Law Corporation, and the Complainant, acting by and  
25 through Elliott Mac Lennan, Counsel for the Department of Real  
26 Estate ("Department"), as follows for the purpose of settling and  
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1 disposing of the Accusation ("Accusation") filed on February 27,  
2 2007, in this matter:

3 1. All issues which were to be contested and all  
4 evidence which was to be presented by Complainant and Respondents  
5 at a formal hearing on the Accusation, which hearing was to be  
6 held in accordance with the provisions of the Administrative  
7 Procedure Act ("APA"), shall instead and in place thereof be  
8 submitted solely on the basis of the provisions of this  
9 Stipulation and Agreement ("Stipulation").

10 2. Respondents have received, read and understand the  
11 Statement to Respondent, the Discovery Provisions of the APA and  
12 the Accusation filed by the Department of Real Estate in this  
13 proceeding.

14 3. Respondents timely filed a Notice of Defense  
15 pursuant to Section 11506 of the Government Code for the purpose  
16 of requesting a hearing on the allegations in the Accusation.  
17 Respondents hereby freely and voluntarily withdraw said Notice of  
18 Defense. Respondents acknowledge that they understand that by  
19 withdrawing said Notice of Defense they thereby waive their right  
20 to require the Commissioner to prove the allegations in the  
21 Accusation at a contested hearing held in accordance with the  
22 provisions of the APA and that they will waive other rights  
23 afforded to them in connection with the hearing such as the right  
24 to present evidence in their defense and the right to cross-  
25 examine witnesses.  
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1                   4. This Stipulation is based on the factual  
2 allegations contained in the Accusation. In the interest of  
3 expedience and economy, Respondents choose not to contest these  
4 allegations, but to remain silent and understand that, as a  
5 result thereof, these factual allegations, without being admitted  
6 or denied, will serve as a prima facie basis for the disciplinary  
7 action stipulated to herein. The Real Estate Commissioner shall  
8 not be required to provide further evidence to prove said factual  
9 allegations.

10                   5. This Stipulation and Respondents' decision not to  
11 contest the Accusation is made for the purpose of reaching an  
12 agreed disposition of this proceeding and is expressly limited to  
13 this proceeding and any other proceeding or case in which the  
14 Department, the state or federal government, or any agency of  
15 this state, another state or federal government is involved, and  
16 otherwise shall not be admissible in any other criminal or civil  
17 proceedings.  
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19                   6. It is understood by the parties that the Real  
20 Estate Commissioner may adopt this Stipulation as his Decision in  
21 this matter thereby imposing the penalty and sanctions on  
22 Respondents' real estate licenses and license rights as set forth  
23 in the "Order" herein below. In the event that the Commissioner  
24 in his discretion does not adopt the Stipulation, it shall be  
25 void and of no effect and Respondents shall retain the right to a  
26 hearing and proceeding on the Accusation under the provisions of  
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1           7. The Order or any subsequent Order of the Real  
2 Estate Commissioner made pursuant to this Stipulation shall not  
3 constitute an estoppel, merger or bar to any further  
4 administrative or civil proceedings by the Department of Real  
5 Estate with respect to any matters which were not specifically  
6 alleged to be causes for Accusation in this proceeding but do  
7 constitute a bar, estoppel and merger as to any allegations  
8 actually contained in the Accusations against Respondents herein.

9           8. Respondents understand that by agreeing to this  
10 Stipulation, Respondents agree to pay, pursuant to Business and  
11 Professions Code Section 10148, the cost of audit which led to  
12 this disciplinary action. The amount of said cost for the audit  
13 is \$7,189.00 (Audit Report LA 040286).

14           9. Respondents have received, read, and understand the  
15 "Notice Concerning Costs of Subsequent Audit". Respondents  
16 further understand that by agreeing to this Stipulation, the  
17 findings set forth below in the Determination of Issues become  
18 final, and the Commissioner may charge Respondents for the cost  
19 of any subsequent audit conducted pursuant to Business and  
20 Professions Code Section 10148 to determine if the violations  
21 have been corrected. The maximum cost of the subsequent audit  
22 will not exceed \$7,189.00.

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DETERMINATION OF ISSUES

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2 By reason of the foregoing, it is stipulated and agreed  
3 that the following determination of issues shall be made:

I.

4  
5 The conduct of FIRST CAPITAL FINANCIAL RESOURCES INC.,  
6 as referred to in Paragraph 4, above, is in violation of Sections  
7 10137, 10145 and 10236.4 and of the Business and Professions Code  
8 ("Code") and is a basis for the suspension or revocation of  
9 Respondent's license and license rights as a violation of the  
10 Real Estate Law pursuant to Code Section 10177(d).

II.

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12 The conduct of JACQUELINE BEOGLYAN BALYAN, as described  
13 in Paragraph 4, constitutes a failure to keep First Capital  
14 Financial Resources Inc. in compliance with the Real Estate Law  
15 during the time that he was the officer designated by a corporate  
16 broker licensee in violation of Section 10159.2 of the Code.  
17 This conduct is a basis for the suspension or revocation of  
18 Respondent's license pursuant to Code Section 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents

FIRST CAPITAL FINANCIAL RESOURCES INC. and JACQUELINE BEOGLYAN

BALYAN under the Real Estate Law are suspended for a period of

ninety (90) days from the effective date of this Decision;

provided, however, that if Respondents request, the initial

thirty (30) days of said suspension (or a portion thereof) shall

be stayed upon condition that:

A. 1. Respondents each pay a monetary penalty pursuant  
to Section 10175.2 of the Business and Professions Code of \$3,000  
(at the rate of \$100 per day for each day of the suspension) for  
a total monetary penalty of \$6,000.

2. Said payment shall be in the form of a cashier's  
check or certified check made payable to the Recovery Account of  
the Real Estate Fund. Said check must be received by the  
Department prior to the effective date of the Decision in this  
matter.

3. No further cause for disciplinary action against  
the real estate licenses of Respondents occurs within two (2)  
years from the effective date of the Decision in this matter.

4. If Respondents fail to pay the monetary penalty in  
accordance with the terms of the Decision, the Commissioner may,  
without a hearing, order the immediate execution of all or any

1 part of the stayed suspension, in which event the Respondents  
2 shall not be entitled to any repayment nor credit, prorated or  
3 otherwise, for money paid to the Department under the terms of  
4 this Decision.

5 5. If Respondents pay the monetary penalty and if no  
6 further cause for disciplinary action against the real estate  
7 license of Respondent occurs within two (2) years from the  
8 effective date of the Decision, the stay hereby granted shall  
9 become permanent

10 B. The remaining sixty (60) days of the ninety (90)  
11 day suspension shall be stayed for two (2) years upon the  
12 following terms and conditions:

13 (a) Respondents shall obey all laws, rules and  
14 regulations governing the rights, duties and responsibilities of  
15 a real estate licensee in the State of California; and

16 (b) That no final subsequent determination be made  
17 after hearing or upon stipulation, that cause for disciplinary  
18 action occurred within two (2) years from the effective date of  
19 this Decision. Should such a determination be made, the  
20 Commissioner may, in his discretion, vacate and set aside the  
21 stay order and reimpose all or a portion of the stayed  
22 suspension. Should no such determination be made, the stay  
23 imposed herein shall become permanent.  
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II.

1  
2 Pursuant to Section 10148 of the Business and  
3 Professions Code, Respondents FIRST CAPITAL FINANCIAL RESOURCES  
4 INC. and JACQUELINE BEOGLYAN BALYAN shall pay the Commissioner's  
5 reasonable cost for (a) the audit which led to this disciplinary  
6 action (b) a subsequent audit to determine if Respondents are now  
7 in compliance with the Real Estate Law. The cost of the audit  
8 which led to this disciplinary action is \$7,189.00. In  
9 calculating the amount of the Commissioner's reasonable cost, the  
10 Commissioner may use the estimated average hourly salary for all  
11 persons performing audits of real estate brokers, and shall  
12 include an allocation for travel time to and from the auditor's  
13 place of work. Said amount for the prior and subsequent audits  
14 shall not exceed \$14,378.00.

15  
16 Respondents shall pay such cost within 60 days of  
17 receiving an invoice from the Commissioner detailing the  
18 activities performed during the audit and the amount of time  
19 spent performing those activities.

20 The Commissioner may suspend the license of Respondents  
21 pending a hearing held in accordance with Section 11500, et seq.,  
22 of the Government Code, if payment is not timely made as provided  
23 for herein, or as provided for in a subsequent agreement between  
24 the Respondent and the Commissioner. The suspension shall remain  
25 in effect until payment is made in full or until Respondents  
26 enter into an agreement satisfactory to the Commissioner to  
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1 provide for payment, or until a decision providing otherwise is  
2 adopted following a hearing held pursuant to this condition.

3 III.

4 All licenses and licensing rights of Respondent  
5 JACQUELINE BEOGLYAN BALYAN are indefinitely suspended unless or  
6 until Respondent provides proof satisfactory to the Commissioner,  
7 of having taken and successfully completed the continuing  
8 education course on trust fund accounting and handling specified  
9 in paragraph (3) of subdivision (a) of Section 10170.5 of the  
10 Business and Professions Code. Proof of satisfaction of this  
11 requirement includes evidence that respondent has successfully  
12 completed the trust fund account and handling continuing  
13 education course within 120 days prior to the effective date of  
14 the Decision in this matter.

15  
16  
17 DATED: 4-13-07

EJL  
ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

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19 \* \* \*

20 EXECUTION OF THE STIPULATION

21 We have read the Stipulation and discussed with our  
22 counsel. Its terms are understood by us and are agreeable and  
23 acceptable to us. We understand that we are waiving rights given  
24 to us by the California Administrative Procedure Act (including  
25 but not limited to Sections 11506, 11508, 11509 and 11513 of the  
26 Government Code), and we willingly, intelligently and voluntarily  
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1 waive those rights, including the right of requiring the  
2 Commissioner to prove the allegations in the Accusation at a  
3 hearing at which we would have the right to cross-examine  
4 witnesses against us and to present evidence in defense and  
5 mitigation of the charges.

6 MAILING AND FACSIMILE

7 Respondent (1) shall mail the original signed signature  
8 page of the stipulation herein to Elliott Mac Lennan: Attention:  
9 Legal Section, Department of Real Estate, 320 W. Fourth St.,  
10 Suite 350, Los Angeles, California 90013-1105. Additionally,  
11 Respondent shall also (2) facsimile a copy of signed signature  
12 page, to the Department at the following telephone/fax number:  
13 (213) 576-6917, Attention: Elliott Mac Lennan.

14 A facsimile constitutes acceptance and approval of the  
15 terms and conditions of this stipulation. Respondent agrees,  
16 acknowledges and understands that by electronically sending to  
17 the Department a facsimile copy of Respondent's actual signature  
18 as it appears on the stipulation, that receipt of the facsimile  
19 copy by the Department shall be as binding on Respondent as if  
20 the Department had received the original signed stipulation.

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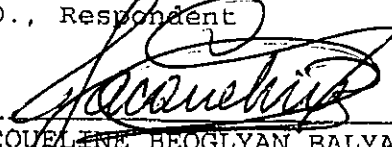
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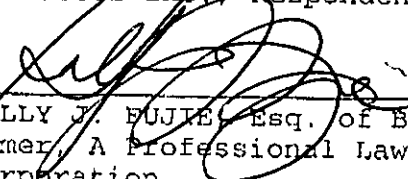
DATED: May 24, 2007

  
FIRST CAPITAL FINANCIAL RESOURCES  
INC., a corporate real estate  
broker.  
BY: JACQUELINE BEOGLYAN BALYAN,  
D.O., Respondent

DATED: May 24, 2007

  
JACQUELINE BEOGLYAN BALYAN  
individually and as designated  
officer of First Capital Financial  
Resources Inc., Respondent

DATED: June 5, 2007

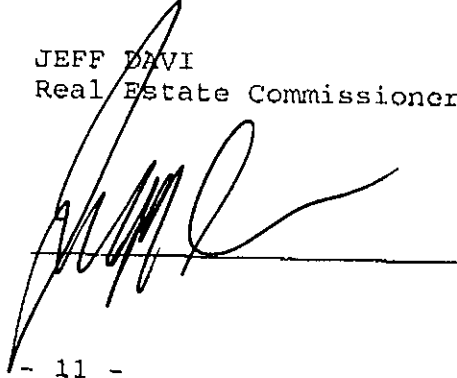
  
HOLLY J. FUJITA, Esq. of Buchalter  
Nemer, A Professional Law  
Corporation  
Attorney for Respondents  
Approved as to form

\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondents FIRST CAPITAL FINANCIAL  
RESOURCES INC. and JACQUELINE BEOGLYAN BALYAN, individually and  
as designated officer of First Capital Financial Resources Inc.  
and shall become effective at 12 o'clock noon on  
AUG 13, 2007.

IT IS SO ORDERED 7-9-, 2007.

JEFF DAVI  
Real Estate Commissioner



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ELLIOTT MAC LENNAN, SBN 66674  
Department of Real Estate  
320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)  
-or- (213) 576-6982 (office)

**FILED**  
FEB 27 2007  
DEPARTMENT OF REAL ESTATE

By *K. Waddell*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-33758 LA
FIRST CAPITAL FINANCIAL RESOURCES	)	<u>A C C U S A T I O N</u>
INC., and JACQUELINE BEOGLYAN	)	
BALYAN, individually and as	)	
designated officer of First	)	
Capital Financial Resources Inc.,	)	
Respondents.	)	

The Complainant, Janice Waddell, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against FIRST CAPITAL FINANCIAL RESOURCES INC. and JACQUELINE BEOGLYAN BALYAN, individually and as designated officer of First Capital Financial Resources Inc., alleges as follows:

1.

The Complainant, Janice Waddell, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against FIRST CAPITAL FINANCIAL RESOURCES INC. and JACQUELINE BEOGLYAN BALYAN.

2.

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2 All references to the "Code" are to the California  
3 Business and Professions Code and all references to "Regulations"  
4 are to Title 10, Chapter 6, California Code of Regulations.

5 LICENSE HISTORY

6 3.

7 A. FIRST CAPITAL FINANCIAL RESOURCES INC. At all  
8 times mentioned, FIRST CAPITAL FINANCIAL RESOURCES INC. ("FCFRI")  
9 was licensed or had license rights issued by the Department of  
10 Real Estate ("Department") as a real estate broker. On May 8,  
11 2004, FCFRI was originally licensed as a real estate broker  
12 through JACQUELINE BEOGLYAN as the designated officer.

13 B. JACQUELINE BEOGLYAN BALYAN. At all times  
14 mentioned, JACQUELINE BEOGLYAN BALYAN ("BALYAN") was licensed or  
15 had license rights issued by the Department of Real Estate  
16 (Department) as a real estate broker. On August 21, 2002, BALYAN  
17 was originally licensed as a real estate salesperson. On March  
18 22, 2004, BALYAN was originally licensed as a real estate broker.  
19 On May 8, 2004, BALYAN was licensed as the designated officer of  
20 FCFRI.

21 C. At all times material herein, FCFRI was licensed by  
22 the Department of Real Estate of the State of California  
23 (hereinafter "Department") as a corporate real estate broker by  
24 and through BALYAN, as the designated officer and broker  
25 responsible, pursuant to Code Section 10159.2 of the Business and  
26 Professions Code for supervising the activities requiring a real  
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1 estate license conducted on behalf FCFRI of by FCFRI's officers,  
2 agents and employees, including BALYAN.

3 MORTGAGE LOAN BROKERAGE

4 4.

5 At all times mentioned, in the City of Glendale, County  
6 of Los Angeles, FCFRI acted as a real estate broker and conducted  
7 licensed activities within the meaning of Code Sections:

8 A. 10131(a). FCFRI operated a residential resale  
9 brokerage.

10  
11 B. 10131(d). FCFRI operated a mortgage and loan  
12 brokerage.

13 AUDIT EXAMINATION

14 5.

15  
16 On August 23, 2005, the Department completed an audit  
17 examination of the books and records of FCFRI pertaining to the  
18 mortgage and loan activities described in Paragraph 4, that  
19 require a real estate license. The audit examination covered a  
20 period of time beginning on May 8, 2004 to July 6, 2005. The  
21 audit examination revealed violations of the Code and the  
22 Regulations as set forth in the following paragraphs, and more  
23 fully discussed in Audit Report LA 040286 and the exhibits and  
24 workpapers attached to said audit report.

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TRUST ACCOUNTS

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, FCFRI accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by FCFRI including borrowers and lenders and thereafter made deposits and or disbursements of such funds. FCFRI did not maintain a trust account during the audit period.

VIOLATIONS OF THE REAL ESTATE LAW

7.

In the course of activities described in Paragraphs 4 and 6, above, and during the examination period described in Paragraph 5, Respondents FCFRI and BALYAN, acted in violation of the Code and the Regulations in that they:

(a) Failed to disclose that FCFRI charged credit report fees in excess of the amount billed to borrowers by the credit reporting company for borrowers Medrano, Cardenas, Lipinski, Ennis, Pupaza, Ortiz, Dillon, Ettinger, Franco, Medoza Jr., Medrano again, Hooper, Alobaid, Noriega, Adkins, Reid and Neri for a total of overcharge of \$1,019.50. This failure to disclose constitutes the taking of a secret profit by means of compensation undisclosed to the in violation of Code Sections 10145 and 10176(g). These overcharges were refunded to the aforesaid borrowers

1 (b) Mixed and commingled trust funds and personal funds  
2 by depositing appraisal and credit report fees received from  
3 borrowers Lipinski, Ettinger, Medoza Jr., Hooper, Alobaid, and  
4 Neri, escrow at funding into FCFRI's general operating account  
5 and subsequently issuing checks for disbursement from FCFRI's  
6 general account to the appraisers and/or credit companies after  
7 the escrow checks were deposited, violation of Code Section 10145  
8 and 10176(e).

9 (c) (1) Failed to provide, maintain or retain a true and  
10 correct copy of a Department of Real Estate approved Mortgage  
11 Loan Disclosure Statement signed by the broker for borrowers  
12 Medrano, Jackson, Cardenas, Lipinski, Dillon, Ettinger, Mendoza,  
13 Centolanza, Hooper, Lopez, Brand, Alobaid, Espanola-Adkins,  
14 Noriega, Reid, Brandes and Neri, in violation of Code Section  
15 10240 and 10241 and Regulation 2840.

16 (c) (2) Failed to disclose yield spread premiums from  
17 lenders on the approved Mortgage Loan Disclosure Statement for  
18 the borrowers Centolanza and Brandes, in violation of Code  
19 Section 10240, 10241 and Regulation 2840.

20 (c) (3) Failed to display FCFRI's name and the  
21 corporation's license number on the Mortgage Loan Disclosure  
22 Statements. Nor did FCFRI disclose its real estate license  
23 number #01243567 on the Mortgage Loan Disclosure Statements  
24 provided to borrowers Childers, Pastor and Rodriguez. Instead,  
25 FCFRI, recited the real estate license number of another  
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1 corporation wherein FARIBORZ is also the designated officer, in  
2 violation of Code Section 10236.4.

3 (d) Employed and compensated Robert Seeram, John  
4 Wyshak, Alfonso Ruan, Stacy Jones, Michael Wolff, Charles Chin,  
5 Jodi Gonzalez, Daniel Gellis, Frank Duran, Pierre Bass, John  
6 Evdjukan, Matthew Avrush, Steve Harris, Richard Houston, Ana  
7 Morales, Raul Diaz, Kenyan Panduro, Harrison Wood, Lance Keene,  
8 Frank Duran, Ricardo Parrish, Eugene Prisby, Marcus Sanchez,  
9 Rogelio Herrera, Michael McCormick, Edgil Reid Jr. and Amy  
10 Sturton, as loan agents who she knew was not licensed by the  
11 Department as a real estate broker or as a real estate  
12 salesperson employed by a real estate broker, for performing acts  
13 for which a real estate license is required, including soliciting  
14 mortgage loans, in violation of Code Section 10137.

15 8.

16 The conduct of Respondents FCFRI, BALYAN and BALYAN,  
17 described in Paragraph 7, above, violated the Code and the  
18 Regulations as set forth below:  
19

20 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
21 7(a)	Code Sections 10145 and 10176(g)
22	
23 7(b)	Code Sections 10145 and 10176(e)
24	
25 7(c) (1)&(2)	Code Sections 10240 and 10241
26	and Regulation 2840
27	

1 7(c) (3)

Code Section 10236.4

2  
3 7(d)

Code Section 10137

4  
5 The foregoing violations constitutes cause for the suspension or  
6 revocation of the real estate license and license rights of  
7 FCFRI, BALYAN and BALYAN, under the provisions of Code Sections  
8 10137, 10177(d) and/or 10177(g).  
9

10 9.

11 The overall conduct of Respondents FCFRI and BALYAN  
12 constitutes negligence or incompetence. This conduct and  
13 violation are cause for the suspension or revocation of the real  
14 estate license and license rights of Respondents pursuant to Code  
15 Section 10177(g).

16 10.

17 The overall conduct of Respondent BALYAN constitutes a  
18 failure on her part, as officer designated by a corporate broker  
19 licensee, to exercise the reasonable supervision and control over  
20 the licensed activities of FCFRI as required by Code Section  
21 10159.2, and to keep FCFRI in compliance with the Real Estate  
22 Law, and is cause for the suspension or revocation of the real  
23 estate license and license rights of BALYAN pursuant to the  
24 provisions of Code Sections 10177(d), 10177(g) and 10177(h).  
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1 WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against the license and license rights of Respondents  
5 FIRST CAPITAL FINANCIAL RESOURCES INC. and JACQUELINE BEOGLYAN  
6 BALYAN, under the Real Estate Law (Part 1 of Division 4 of the  
7 Business and Professions Code) and for such other and further  
8 relief as may be proper under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this *29 November 2006*

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12 Deputy Real Estate Commissioner

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24 cc: First Capital Financial Resources Inc.  
25 c/o Jacqueline Beoglyan Balyan D.O.  
26 Janice Waddell  
27 Sacto  
Audits - Jennifer Lin