

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

FEB 27 2009

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

6
7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)

No. H-35131 LA

11 FIRST CITY FUNDING; a California)
12 Corporation doing business as)
13 Credit Corp.; and NURIT PETRI,)
14 Individually and as designated)
15 officer of First City Funding,)

STIPULATION
AND
AGREEMENT

14 Respondents,)

16 It is hereby stipulated by and between Respondents
17 FIRST CITY FUNDING, and NURIT PETRI, individually and as
18 designated officer of First City Funding (sometimes collectively
19 referred to as "Respondents"), and the Complainant, acting by and
20 through Elliott Mac Lennan, Counsel for the Department of Real
21 Estate, as follows for the purpose of settling and disposing of
22 the Accusation ("Accusation") filed on July 21, 2008, in this
23 matter:

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

5 2. Respondents have received, read and understand the
6 Statement to Respondent, the Discovery Provisions of the APA and
7 the Accusation filed by the Department of Real Estate in this
8 proceeding.

9 3. Respondents timely filed a Notice of Defense
10 pursuant to Section 11506 of the Government Code for the purpose
11 of requesting a hearing on the allegations in the Accusation.
12 Respondents hereby freely and voluntarily withdraw said Notice of
13 Defense. Respondents acknowledge that they understand that by
14 withdrawing said Notice of Defense they thereby waive their right
15 to require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that they will waive other rights
18 afforded to them in connection with the hearing such as the right
19 to present evidence in their defense and the right to cross-
20 examine witnesses.
21

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation. In the interest of
24 expedience and economy, Respondents choose not to contest these
25 allegations, but to remain silent and understand that, as a
26 result thereof, these factual allegations, without being admitted
27

1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation is made for the purpose of
6 reaching an agreed disposition of this proceeding and is
7 expressly limited to this proceeding and any other proceeding or
8 case in which the Department of Real Estate ("Department"), the
9 state or federal government, or any agency of this state, another
10 state or federal government is involved.

11 6. It is understood by the parties that the Real
12 Estate Commissioner may adopt this Stipulation as his Decision in
13 this matter thereby imposing the penalty and sanctions on
14 Respondents' real estate licenses and license rights as set forth
15 in the "Order" herein below. In the event that the Commissioner
16 in his discretion does not adopt the Stipulation, it shall be
17 void and of no effect and Respondents shall retain the right to a
18 hearing and proceeding on the Accusation under the provisions of
19 the APA and shall not be bound by any stipulation or waiver made
20 herein.
21

22 7. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation shall not
24 constitute an estoppel, merger or bar to any further
25 administrative or civil proceedings by the Department of Real
26 Estate with respect to any matters which were not specifically
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1 alleged to be causes for Accusation in this proceeding but do
2 constitute a bar, estoppel and merger as to any allegations
3 actually contained in the Accusations against Respondent herein.

4 8. Respondents understand that by agreeing to this
5 Stipulation, Respondents agree to pay, pursuant to Business and
6 Professions Code Section 10148, the cost of the audit. The
7 amount of said cost for the audit is \$7,280.77.

8 9. Respondents have received, read, and understand the
9 "Notice Concerning Costs of Subsequent Audit". Respondents
10 further understand that by agreeing to this Stipulation, the
11 findings set forth below in the Determination of Issues become
12 final, and the Commissioner may charge Respondents for the cost
13 of any subsequent audit conducted pursuant to Business and
14 Professions Code Section 10148 to determine if the violations
15 have been corrected. The maximum cost of the subsequent audit
16 will not exceed \$7,280.77.

17
18 DETERMINATION OF ISSUES

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

21 I.

22 The conduct, acts or omissions of FIRST CITY FUNDING
23 and NURIT PETRI, as described in Paragraph 4, above, are in
24 violation of Sections 10145 and 10176(g) of the Business and
25 Professions Code ("Code") and Sections 2831, 2831.2, 2832.1,
26 2834, 2835 and 2950(h) of Title 10, Chapter 6 of the
27

1 California Code of Regulations ("Regulations") and is a basis for
2 discipline of Respondents' license and license rights as
3 violation of the Real Estate Law pursuant to Code Sections
4 10177(d) and 10177(g).

5 II.

6 The conduct, acts or omissions of NURIT PETRI, as
7 described in Paragraph 4, above, constitutes a failure to keep
8 FIRST CITY FUNDING in compliance with the Real Estate Law during
9 the time that he was the officer designated by a corporate broker
10 licensee in violation of Section 10159.2 of the Code and
11 Regulation 2725. This conduct is a basis for discipline of
12 Respondent's license pursuant to Code Section 10177(h).

13 ORDER

14 WHEREFORE, THE FOLLOWING ORDER is hereby made:

15 I.

16 All licenses and license rights of FIRST CITY FUNDING
17 are revoked.

18 II.

19 A. The license and licensing rights of Respondent
20 NURIT PETRI under the Real Estate Law, are suspended for a period
21 of sixty (60) days from the effective date of this Decision;
22 provided, however, that thirty (30) days of said suspension shall
23 be stayed for two (2) years upon the following terms and
24 conditions:

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1 1. Respondent shall obey all laws, rules and
2 regulations governing the rights, duties and responsibilities of
3 a real estate licensee in the State of California.

4 2. That no final subsequent determination be made,
5 after hearing or upon stipulation, that cause for disciplinary
6 action occurred within two (2) years of the effective date of
7 this Decision. Should such determination be made, the
8 Commissioner may, in his discretion, vacate and set aside the
9 stay order and reimpose all or a portion of the stayed
10 suspension. Should no such determination be made, the stay
11 imposed herein shall become permanent.

12 B. The initial thirty (30) day portion of said sixty
13 (60) day suspension shall commence on the effective date of this
14 Decision; provided, however, that if Respondent petitions, said
15 suspension shall be stayed upon condition that:

16 1. Pursuant to Section 10175.2 of the Business and
17 Professions Code, Respondent shall pay a monetary penalty of One
18 Hundred Dollars (\$100.00) per day or Three Thousand Dollars
19 (\$3,000).

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

24 3. No further cause for disciplinary action against
25 the real estate license of Respondent occurs within two (2) years
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1 from the effective date of the Decision in this matter.

2 4. If Respondent fails to pay the monetary penalty in
3 accordance with the terms and conditions of the Decision, the
4 Commissioner may, without a hearing, order the immediate
5 execution of all or any part of the stayed suspension in which
6 event Respondents shall not be entitled to any repayment nor
7 credit, prorated or otherwise, for money paid to the Department
8 under the terms of this Decision.

9 5. If Respondent pays the monetary penalty and provide
10 evidence as required, above, and if no further cause for
11 disciplinary action against the real estate licenses of
12 Respondent occurs within two (2) years from the effective date of
13 the Decision, the stay hereby granted shall become permanent.

14 III.

15 Pursuant to Section 10148 of the Business and
16 Professions Code, Respondent NURIT PETRI shall pay the
17 Commissioner's reasonable cost for (a) the audit which led to
18 this disciplinary action (b) a subsequent audit to determine if
19 Respondent FIRST CITY FUNDING is now in compliance with the Real
20 Estate Law. The cost of the audit which led to this disciplinary
21 action is \$7,280.77. In calculating the amount of the
22 Commissioner's reasonable cost, the Commissioner may use the
23 estimated average hourly salary for all persons performing audits
24 of real estate brokers, and shall include an allocation for
25 travel time to and from the auditor's place of work. Said amount
26 for the prior and subsequent audits shall not exceed \$14,561.54.
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1 Respondent shall pay such cost within 60 days of
2 receiving an invoice from the Commissioner detailing the
3 activities performed during the audit and the amount of time
4 spent performing those activities.

5 The Commissioner may suspend the license of Respondent
6 pending a hearing held in accordance with Section 11500, et seq.,
7 of the Government Code, if payment is not timely made as provided
8 for herein, or as provided for in a subsequent agreement between
9 the Respondent and the Commissioner. The suspension shall remain
10 in effect until payment is made in full or until Respondent enter
11 into an agreement satisfactory to the Commissioner to provide for
12 payment, or until a decision providing otherwise is adopted
13 following a hearing held pursuant to this condition.

14 IV.

15 All licenses and licensing rights of Respondent NURIT
16 PETRI are indefinitely suspended unless or until Respondent
17 provides proof satisfactory to the Commissioner, of having taken
18 and successfully completed the continuing education course on
19 trust fund accounting and handling specified in paragraph (3) of
20 subdivision (a) of Section 10170.5 of the Business and
21 Professions Code. Proof of satisfaction of this requirement
22 includes evidence that respondent has successfully completed the
23 trust fund account and handling continuing education course
24 within 120 days prior to the effective date of the Decision in
25 this matter.
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V.

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2 Prior to the effective of the Decision herein,
3 Respondent shall first provide evidence satisfactory to the
4 Commissioner that the remaining trust fund deficit set forth in
5 the Accusation and in Audit Report LA 070025 and LA 070124, in
6 the amount of \$480.66, as of December 29, 2006, has been cured,
7 including the identification of the source of funds used to cure
8 the deficit.

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11 DATED: 1-27-09 EJL
12 ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

13 * * *

14 EXECUTION OF THE STIPULATION

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

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MAILING AND FACSIMILE

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


10 A facsimile constitutes acceptance and approval of the
11 terms and conditions of this stipulation. Respondents agree,
12 acknowledge and understand that by electronically sending to the
13 Department a facsimile copy of Respondents' actual signature as
14 it appears on the stipulation that receipt of the facsimile copy
15 by the Department shall be as binding on Respondents as if the
16 Department had received the original signed stipulation.
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19

20 DATED: 11/17/08



FIRST CITY FUNDING, a corporate
real estate broker,
BY: NURIT PETRI D.O., Respondent

24
25 DATED: 11/17/2008



NURIT PETRI, individually and as
former designated officer of FIRST
CITY FUNDING, Respondent

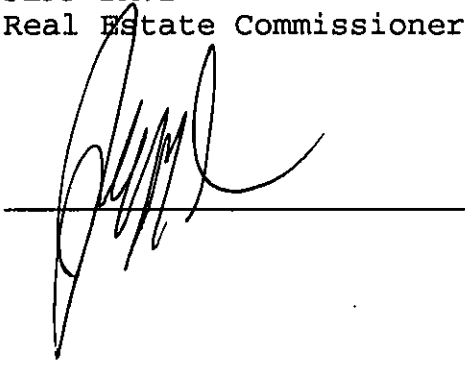
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents FIRST CITY FUNDING and
NURIT PETRI, individually and as designated officer of First City
Funding, and shall become effective at
12 o'clock noon on _____ March 30 _____, 2009.

IT IS SO ORDERED 2-4, 2009.

JEFF DAVI
Real Estate Commissioner



1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

FILED

JUL 21 2008

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

DEPARTMENT OF REAL ESTATE
BY: *Honey*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11	In the Matter of the Accusation of)	No. H-35131 LA
12)	
13	FIRST CITY FUNDING, a California)	<u>A C C U S A T I O N</u>
14	corporation doing business as)	
15	Credit Corp.; and NURIT PETRI,)	
16	individually and as former)	
	designated officer of First)	
	City Funding,)	
)	
	Respondents.)	

17 The Complainant, Robin Trujillo, a Deputy Real
18 Estate Commissioner of the State of California, for cause of
19 Accusation against FIRST CITY FUNDING dba Credit Corp.; and NURIT
20 PETRI, individually and as former designated officer of First
21 City Funding, alleges as follows:

22 1.

23
24 The Complainant, Robin Trujillo, acting in her official
25 capacity as a Deputy Real Estate Commissioner of the State of
26 California, makes this Accusation against FIRST CITY FUNDING and
27 NURIT PETRI.

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 CITY FUNDING. At all times mentioned, FIRST
8 CITY FUNDING ("FIRST CITY") was licensed or had license rights
9 issued by the Department of Real Estate ("Department") as a real
10 estate broker. On December 7, 1998, FIRST CITY was originally
11 licensed as a real estate broker via NURIT PETRI as the
12 designated officer. FIRST CITY's broker license expired on
13 December 6, 2006. FIRST CITY retains license rights for two
14 years until December 5, 2008. The Department retains
15 jurisdiction over expired and lapsed licenses pursuant to Code
16 Section 10103.

17 B. NURIT PETRI. At all times mentioned, NURIT PETRI
18 ("PETRI") was licensed or had license rights issued by the
19 Department as a real estate broker. On July 1, 2002, PETRI was
20 originally licensed as a real estate broker; and

21 C. At all times material herein, FIRST CITY was
22 licensed by the Department as a corporate real estate broker by
23 and through PETRI, as the designated officer and broker
24 responsible, pursuant to Code Section 10159.2 of the Business and
25 Professions Code for supervising the activities requiring a real
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1 estate license conducted on behalf FIRST CITY of by FIRST CITY's
2 officers, agents and employees, including PETRI.

3 BROKERAGE

4 FIRST CITY FUNDING

5 4.

6 At all times mentioned, in the City of Calabasas,
7 County of Los Angeles, FIRST CITY and PETRI acted as real estate
8 brokers and conducted licensed activities within the meaning of:

9 A. Code Section 10131(d). FIRST CITY operated a
10 mortgage and loan brokerage dba Credit Corp; and

11 B. In addition, FIRST CITY conducted broker-controlled
12 escrows through its escrow division under the exemption set forth
13 in California Financial Code Section 17006(a)(4) for real estate
14 brokers performing escrows incidental to a real estate
15 transaction where the broker is a party and where the broker is
16 performing acts for which a real estate license is required.

17 AUDIT EXAMINATION

18 FIRST CITY FUNDING

19 5.

20
21 On April 22, 2008, the Department completed an audit
22 examination of the books and records of FIRST CITY pertaining to
23 the mortgage and loan and broker-escrow activities described in
24 Paragraph 4 that require a real estate license. The audit
25 examination covered a period of time beginning on November 1,
26 2004 to December 29, 2006. The audit examination revealed
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1 violations of the Code and the Regulations as set forth in the
2 following paragraphs, and more fully discussed in Audit Report LA
3 070025 and LA 070124 and the exhibits and work papers attached to
4 said audit report.

5 TRUST ACCOUNT

6 6.

7 At all times mentioned, in connection with the
8 activities described in Paragraph 4, above, FIRST CITY accepted
9 or received funds including funds in trust (hereinafter "trust
10 funds") from or on behalf of actual or prospective parties,
11 including lenders, borrowers, homeowners and escrow holders, to
12 mortgage loan transactions handled by FIRST CITY and thereafter
13 made deposits and or disbursements of such funds. From time to
14 time herein mentioned during the audit period, said trust funds
15 were deposited and/or maintained by FIRST CITY in the bank
16 account as follows:
17

18 "First City Funding Escrow Division, Escrow Trust Account
19 Account No. 013341400"
20 City National Bank
21 City of Commerce, CA 90040 (escrow trust account)

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1 VIOLATIONS OF THE REAL ESTATE LAW

2 7.

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

7 (a) Permitted, allowed or caused the disbursement of
8 trust funds from the escrow trust account where the disbursement
9 of funds reduced the total of aggregate funds in the escrow trust
10 account, to an amount which, on December 29, 2006, was
11 \$587,682.46 less than the existing aggregate trust fund liability
12 of FIRST CITY to every principal who was an owner of said funds,
13 without first obtaining the prior written consent of the owners
14 of said funds, as required by Code Section 10145 and Regulations
15 2832.1, 2950(d) and 2950(g). On January 30, 2007, \$587,201.80 of
16 the shortage was restored to the escrow trust account. A
17 shortage of \$480.66 remains due and owing.

18 (b) Failed to maintain an adequate control record in
19 the form of a columnar record in chronological order of all trust
20 funds received, deposited and disbursed by the escrow trust fund,
21 as required by Code Section 10145 and Regulations 2831, 2950(d)
22 and 2951.

23 (c) Failed to perform a monthly reconciliation of the
24 balance of all separate beneficiary or transaction records
25 maintained pursuant to Regulation 2831.1 with the record of all
26
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1 trust funds received and disbursed by the escrow trust account,
2 as required by Code Section 10145 and Regulation 2831.2, 2950(d)
3 and 2951.

4 (d) Permitted unlicensed and unbonded person Michael
5 Steward, as an authorized signatory on the escrow trust account,
6 in violation of Code Section 10145 and Regulations 2834, 2950(d)
7 and 2951.

8 (e) Failed to disclose in writing to all parties of
9 PETRI's financial interest and ownership of FIRST CITY's escrow
10 division, as required by Code Section 10176(g) and Regulation
11 2950(h).

12 (f) Received undisclosed compensation totaling
13 \$11,192.51, by means of an earning credit agreement with City
14 National Bank. The earnings credit was based on and calculated
15 by trust fund activity in the escrow trust account. Bank service
16 charges were deducted from the earning credit accrued on the
17 escrow trust account thus reducing FIRST CITY's cost of doing
18 business. The earnings credit arrangement was not disclosed by
19 FIRST CITY and PETRI to the beneficiaries of the escrow trust
20 account, in violation of Code Section 10176(g).

22 (g) Failed to disburse from the escrow trust account
23 broker's escrow fees totaling \$10,676.96 within twenty-five days
24 of deposit, in violation of Code Section 10145 and Regulation
25 2835; and

26 ///

1 (h) PETRI failed to exercise adequate supervision over
2 the real estate resale activities of FIRST CITY requiring a real
3 estate license in order to ensure compliance the Real Estate Laws
4 and Regulations and had no system in place for regularly
5 monitoring compliance with the Real Estate Law, especially in
6 regard to the handling of trust funds, in violation of Code
7 Sections 10159.2, 10177(h) and Regulation 2725.

8 DISCIPLINARY STATUES AND REGULATIONS

9 8.

10 The conduct of Respondents FIRST CITY and PETRI
11 described in Paragraph 7, above, violated the Code and the
12 Regulations as set forth below:

13 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
14 7(a)	Code Section 10145 and Regulations 15 2832.1, 2950(d), 2950(g) and 2951 16
17 7(b)	Code Section 10145 and Regulations 18 2831, 2950(d) and 2951 19
20 7(c)	Code Section 10145 and Regulations 21 2831.2, 2950(d) and 2951 22
23 7(d)	Code Section 10145 and Regulations 24 2834, 2950(d) and 2951 25

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- 7(e) Code Section 10176(g) and Regulation 2950(h)
- 7(f) Code Section 10176(g)
- 7(g) Code Section 10145 Regulation 2835
- 7(h) Code Section 10159.2 and 10177(h) and Regulation 2725

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of FIRST CITY and PETRI, under the provisions of Code Sections 10176(g), 10177(d) and/or 10177(g).

9.

The overall conduct of Respondents FIRST CITY and PETRI constitutes negligence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondents FIRST CITY and PETRI pursuant to Code Section 10177(g).

10.

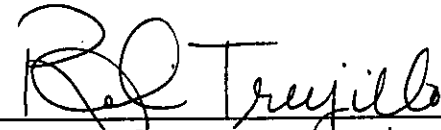
The overall conduct of Respondent PETRI constitutes a failure on Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of FIRST CITY as required by Code Section 10159.2, and to keep FIRST CITY in

1 compliance with the Real Estate Law, and is cause for the
2 suspension or revocation of the real estate license and license
3 rights of PETRI pursuant to the provisions of Code Section
4 10177(h).

5 WHEREFORE, Complainant prays that a hearing be
6 conducted on the allegations of this Accusation and that upon
7 proof thereof, a decision be rendered imposing disciplinary
8 action against the license and license rights of Respondents
9 FIRST CITY FUNDING and NURIT PETRI, under the Real Estate Law
10 (Part 1 of Division 4 of the Business and Professions Code) and
11 for such other and further relief as may be proper under other
12 applicable provisions of law.

13 Dated at Los Angeles, California

14 this 10 day of July 2008.

15 
16 Deputy Real Estate Commissioner

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24 cc: First City Funding
25 c/o Nurit Petri D.O.
26 Robin Trujillo
27 Sacto
Audits - Manijeh Khazrai