

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MID VALLEY SERVICES, INC., AND
LARRY CHARLES KORTH,

Respondents.

Case No. H-2544 FR

OAH No. 2011020803

PROPOSED DECISION

Administrative Law Judge Coren D. Wong, Office of Administrative Hearings, State of California, heard this matter on October 19, 2012, in Sacramento, California.

Richard K. Uno, Real Estate Counsel, and Catalina Serbu, certified legal intern, represented complainant Luke Martin, a Deputy Real Estate Commissioner of the State of California.

Respondent Larry Charles Korth appeared on behalf of himself and respondent Mid Valley Services, Inc.

Evidence was received, the record was closed, and the matter was submitted for decision on October 19, 2012.

SUMMARY

Complainant seeks to discipline Mid Valley Services, Inc., and Larry Charles Korth's respective real estate broker license based on numerous violations of the Real Estate Law and regulations adopted pursuant to it. Cause exists to discipline both licenses. Mr. Korth presented sufficient evidence to demonstrate that he and Mid Valley are capable of continuing to perform real estate transactions in a manner that is consistent with public health, safety, and welfare, on a restricted basis. Therefore, Mid Valley Services, Inc., and Mr. Korth's respective real estate licenses should be revoked and both should be issued restricted licenses, subject to the terms and conditions specified in the Order below. Additionally, Mid Valley Services, Inc., shall pay the cost of the Department's audit within 60 days of the Department's mailing a notice of billing.

FACTUAL FINDINGS

1. On March 25, 1992, the Department of Real Estate (Department) issued Real Estate Broker License No. B01005643 (individual license) to Larry Charles Korth. The individual license expires June 24, 2014, unless renewed or revoked. There is no history of prior discipline of the license.

2. On April 8, 1996, the Department issued Corporate Real Estate Broker License No. C01206057 (corporate license) to Mid Valley Services, Inc. (Mid Valley). The corporate license expires April 7, 2016, unless renewed or revoked. There is no history of prior discipline of the license. Mr. Korth is and, at all times relevant herein, was the designated officer for the corporate license

3. On October 27, 2010, complainant, acting solely in his official capacity, filed an Accusation seeking to discipline the corporate license on the grounds that Mid Valley: 1) failed to timely file its Second Quarter Trust Fund Status Report in 2008 with the Department; 2) had unauthorized shortages of trust funds in its client trust accounts; 3) failed to maintain salesperson license certificates for three salespersons in its employ; and 4) failed to have a signed statement of investor qualification for each investor in a multi-lender transaction. Complainant also seeks to discipline the individual license on the ground that Mr. Korth failed to properly supervise Mid Valley's real estate activities. At hearing, complainant moved to strike lines 1 through 3 from page 5 of the Accusation. The motion was granted, without objection.

Mid Valley's Untimely Second Quarter Trust Fund Status Report

4. Mid Valley was required by law to file its Second Quarter Trust Fund Status Report for 2008 with the Department's Mortgage Lending Section no later than July 31, 2008. The Report was not received by the Department until December 10, 2008. The untimely filing of the Report triggered a request that Mid Valley's real estate activities be audited by the Department.

5. Mr. Korth's business practice was to send Mid Valley's Trust Fund Status Reports to the Department by regular mail and never had any previous problems with any being late. He had no explanation for why the Trust Fund Status Report was late in 2008. Since then, he has changed his method of sending the Trust Fund Status Reports to the Department and now sends them by certified mail to ensure timely receipt.

Department's Audit of Mid Valley's Real Estate Activities

6. Robert Leonard is an auditor employed by the Department. He conducted an audit of Mid Valley's real estate activities intermittently from December 2, 2008, to April 30, 2009. His audit period was from January 1, 2007, to November 30, 2008 (audit period). He conducted an entrance conference with Mr. Korth, the designated officer for Mid Valley, on January 7, 2009. During that conference, Mr. Korth explained that Mid Valley was active in

arranging and servicing private investor loans, as well as arranging institutional loans during the audit period. He estimated that Mid Valley negotiated and arranged 66 private investor loans and 199 institutional loans during 2008. Additionally, Mid-Valley Funding Services, a fictitious business name Mr. Korth was licensed to conduct business under, acted as a lender for a few private investor loans.

Mr. Leonard's audit revealed several violations of the Real Estate Law and regulations adopted pursuant to it.

A. *Shortages in Client Trust Accounts*

7. During the audit period, Mid Valley maintained two separate client trust fund accounts at Fresno First Bank – Account Number 100001528 (Trust 1) and Account Number 100001510 (Trust 2). Trust 1 was used for private investor loan fundings, and Trust 2 was used for loan servicing activity.

8. Trust 1 had an available balance of \$1,425,079.87 on September 30, 2008. According to Mid Valley's separate beneficiary records, however, its aggregate trust fund liability was \$1,482,379.87. Therefore, there was a shortage of funds in the amount of \$57,300. Mr. Leonard traced the shortage to beneficiary accounts for "Mid Valley Services, Inc." (\$27,400) and "Castleberry" (\$29,900). No evidence that Mid Valley had received written permission from all the owners of the trust funds in Trust 1 allowing the available balance to drop below the existing aggregate trust fund liability was presented.

9. Trust 2 had an available balance of \$139,399.92 on September 30, 2008. According to Mid Valley's separate beneficiary records, however, its aggregate trust fund liability was \$139,406.05. Therefore, there was a shortage of funds in the amount of \$6.13. Mr. Leonard traced the shortage to beneficiary accounts for "Upton" (\$6.06) and "Dadian" (\$.07). No evidence was presented that Mid Valley had received written permission from all the owners of the trust funds in Trust 2 allowing the available balance to drop below the existing aggregate trust fund liability was presented.

10. With regard to the shortage in Trust 1, Mr. Korth explained that the Flower/Fitten loan was foreclosed on, and Mid Valley received the real property back. A general contractor was hired to repair the property, and Mr. Korth thought payments to the general contractor had to come from Trust 1 since the property was security for the foreclosed loan. Mr. Korth's practice was to write a trust fund check to the general contractor and deposit funds into Trust 1 to cover the check before it was cashed. For unknown reasons, the deposit was not made in September 2008. He explained the error was noticed during the monthly reconciliation of Mid Valley's bank records, and funds were immediately deposited to cure the shortage. Mr. Korth's explanation is corroborated by Mid Valley's separate beneficiary statements, except the negative balances occurred over a four-month period rather than the one-month period Mr. Korth testified to.

11. Mr. Korth provided no explanation for the shortage in Trust 2.

B. *Commingling of Funds in Trust Accounts*

12. Mid Valley deposited more than \$200 of its own money in Trust 1. Specifically, Mid Valley had \$269.49 of its own money on deposit in Trust 1 as of September 30, 2008. And from April 21 through June 30, 2008, Mid Valley had deposited \$10,977.76 of its own money in Trust 1. Mid Valley also commingled its own funds with trust funds in Trust 2. From February 21 through May 2, 2002, the balance in Trust 2 included \$358.53 of Mid Valley's own money.

13. Mr. Korth explained that he kept more than \$200 of Mid Valley's money in Trust 1 and Trust 2 because he was having an ongoing problem with the bank deducting account fees from the two trust accounts, rather than Mid Valley's business account. Therefore, he had the practice of keeping sufficient funds in both trust accounts to cover any fees erroneously deducted in order to avoid either account being overdrawn. The bank has since corrected its errors, and the account fees are deducted from Mid Valley's business account. Mid Valley no longer has more than \$200 of its money on deposit in Trust 1 or Trust 2.

As for the \$10,977.76 on deposit in Trust 1 from April 21 through June 30, 2008, Mr. Korth explained that money was his own personal funds he used to fund loans. He has since learned that he cannot deposit any of his personal money in either trust account, regardless of the amount.

C. *Failure to Maintain Copies of Salespersons Licenses*

14. Mr. Leonard inspected the salesperson licenses for the salespeople licensed under the corporate license. Mr. Korch was unable to produce copies of licenses for salespersons Lizette Haros, Linda Smoyer, and Fred Williams.

15. Mr. Korth explained that Ms. Haros, Ms. Smoyer, and Mr. Williams were not active salespeople during the audit period. They still are not active salespeople. However, he has since hung copies of their respective salesperson licenses on his wall.

D. *Failure to Have a Signed Statement of Investor Qualification*

16. Mr. Leonard reviewed Mid Valley's loan files, including the file for the Flower/Fitten loan. Mid Valley funded that loan by selling undivided interests in a note secured by real property to multiple investors. Mid Valley failed to obtain signed written statements from each investor affirming that the amount of his investment does not exceed 10 percent of his net worth or 10 percent of his federal adjusted gross income for the previous tax year.

17. Mr. Korth could not explain why the investors in the Flower/Fitten loan did not sign a servicing agreement. His servicing agreement has since been rewritten and now requires each investor to sign the agreement in two different places.

Factors in Aggravation, Mitigation and Rehabilitation

18. At hearing, Mr. Leonard described Mr. Korth as open and cooperative throughout the audit process.

19. Mr. Korth explained at hearing that none of his violations of the Real Estate law or regulations adopted pursuant to it were committed with any intent to flout the law or mislead any clients. In addition to the changes in his business practices discussed above, he has discussed each of the violations with his office administrator so she can help avoid future violations. Additionally, he has hired an attorney who is physically located in the office with him and reviews all transactions to ensure compliance with the Real Estate Law and the regulations adopted pursuant to it.

20. As discussed below, cause exists to discipline Mid Valley and Mr. Korth's respective real estate broker licenses on multiple grounds. The changes Mr. Korth made to his business practices, however, demonstrated that he and Mid Valley are still capable of participating in real estate transactions in a manner that is consistent with public health, safety, and welfare, with certain restrictions. Complainant's counsel recognized the same and recommended at the hearing that both real estate licenses be suspended for a period of 30 days each, with each licensee having the opportunity to "buy down" the suspension at the rate of \$50 per day, for a total of \$1,500 per license. Upon payment of \$1,500, the suspension will be stayed for a period of three years. It was also recommended that Mr. Korth take and pass the professional responsibility examination within six months and Mid Valley reimburse the Department the sum of \$5,351.20 for the cost of Mr. Leonard's audit.

Award of Costs of Audit

21. At hearing, complaint requested that Mid Valley be ordered to pay the cost of Mr. Leonard's audit. As explained in Legal Conclusion 16, Mid Valley is required to pay such costs within 60 days of the Department's mailing a notice of billing as a matter of law.

LEGAL CONCLUSIONS

Applicable Law

A. *Trust Fund Accounts*

1. A real estate broker who accepts funds on behalf of another as part of a real estate transaction must immediately deposit those funds into a trust account or place them into a neutral escrow depository or into the hands of the broker's principal, where the funds shall remain until disbursed pursuant to the owner's instructions. (Bus. & Prof. Code, § 10145, subd. (a).) The broker shall keep a separate record showing the receipt and disposition of all trust funds, including any interest earned on the funds. (Bus. & Prof. Code, § 10145, subd. (g).) And he may not commingle his own funds with trust funds. (Bus. &

Prof. Code, § 10176, subd. (e); Cal. Code of Regs., tit. 10, § 2835, subd. (a) [a broker is permitted to keep up to \$200 of his own funds in a trust account to cover account fees].)

2. Prior to making a withdrawal from a trust account that will reduce the available balance to an amount less than the existing trust fund liability, the broker shall obtain the written consent of all beneficiaries who own money in the trust account. (Cal. Code of Regs., tit. 10, § 2832.1.)

3. A real estate broker who is subject to Business and Professions Code section 10232, subdivision (a), must file a trust fund status report within 30 days of the end of each of the first three fiscal quarters of the broker's fiscal year. (Bus. & Prof. Code, § 10232.25, subd. (a).)

Business and Professions Code section 10232, subdivision (a), applies to those brokers whose real estate activities include: 1) negotiating a combination of 10 or more loans secured by liens on real property or on business opportunities as an agent for another, sales or exchanges of real property sales contracts or promissory notes secured by liens on real property or on business opportunities as an agent for another, or sales or exchanges of real property sales contracts or promissory notes secured by liens on real property or on business opportunities as the owner of those contracts or notes; 2) collecting payments in an aggregate amount of \$250,000 or more on behalf of owners of promissory notes secured by liens on real property, owners of real property sales contracts, or both; or 3) collecting payments in an aggregate amount of \$250,000 or more on behalf of obligors of promissory notes secured by liens on real property, lenders of real property sales contracts, or both.

B. *Statement Investor Qualifications*

4. A real estate broker who sells an undivided interest in a note secured by real property to multiple investors must obtain a signed written statement from each investor affirming that the amount of his investment does not exceed 10 percent of his net worth or 10 percent of his federal adjusted gross income for the previous tax year. (Bus. & Prof. Code, § 10238, subdivision (f).)

C. *Duty to Maintain Possession of the Salesperson License*

5. Business and Professions Code section 10160 provides:

The real estate salesman's license shall remain in the possession of the licensed real estate broker employer until canceled or until the salesman leaves the employ of the broker, and the broker shall make his license and the licenses of his salesman available for inspection by the commissioner or his designated representative.

California Code of Regulations, title 10, section 2753, requires the license certificate of a salesperson to be retained at the main office of the employing real estate broker.

D. *Duty to Supervise Corporate Broker's Real Estate Activities*

6. The officer designated on a corporate real estate broker license is responsible for the corporation's real estate activities.

The officer designated by a corporate broker licensee pursuant to Section 10211 shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of this division, including the supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required.

(Bus. & Prof. Code, § 10159.2, subd. (a).)

E. *Duty to Supervise Salespeople*

7. A real estate broker is responsible for the supervision and control of salespeople in his employ. (Cal. Code of Regs., tit. 10, § 2725.)

Cause for Discipline

8. A real estate broker license may be disciplined if the broker commingles its own funds with trust funds belonging to others. (Bus. & Prof. Code, § 10176, subd. (e).) As discussed in Factual Finding 12, Mid Valley commingled its own funds with trust funds it held in Trust 1 and Trust 2. Therefore, cause exists to discipline Mid Valley's real estate broker license pursuant to Business and Professions Code section 10176, subdivision (e).

9. A real estate broker license may be disciplined if the broker fails to pay the Department's costs associated with the preparation of an examination and report in response to the broker's failure to timely file a quarterly trust fund status report. (Bus. & Prof. Code, § 10232.25, subd. (c).) While Mid Valley failed to timely file its Second Quarter Trust Fund Status Report in 2008 (Factual Finding 4), no evidence was introduced that the Department charged Mid Valley with the cost of preparing an examination and report of such failure. Therefore, no cause exists to discipline Mid Valley's real estate broker license pursuant to Business and Professions Code section 10232.25, subdivision (c).

10. A real estate broker license may be disciplined for the willful disregard or violation of the Real Estate Law or any regulation adopted pursuant to it. (Bus. & Prof. Code, § 10177, subd. (d).) As discussed above, Mid Valley engaged in the following activities which violated the Real Estate Law and regulations adopted pursuant to it:

A. Mid Valley failed to timely file its Second Quarter Trust Fund Status Report in 2008. (Factual Finding 4; Bus. & Prof. Code, § 10232.25, subd. (a).)

B. Mid Valley had a shortage of funds in Trust 1 on September 30, 2008. (Factual Finding 8; Bus. & Prof. Code, § 10145, subd. (a); Cal. Code of Regs., tit. 10, § 2832.1.)

C. Mid Valley had a shortage of funds in Trust 2 on September 30, 2008. (Factual Finding 9; Bus. & Prof. Code, § 10145, subd. (a); Cal. Code of Regs., tit. 10, § 2832.1.)

D. Mid Valley commingled its own funds with those held in trust in Trust 1. (Factual Finding 12; Bus. & Prof. Code, § 10176, subd. (e); Cal. Code of Regs., tit. 10, § 2835, subd. (a).)

E. Mid Valley commingled its own funds with those held in trust in Trust 2. (Factual Finding 12; Bus. & Prof. Code, § 10176, subd. (e); Cal. Code of Regs., tit. 10, § 2835, subd. (a).)

F. Mid Valley failed to maintain possession of the salesperson license for Lizette Haros, Linda Smoyer, and Fred Willaims. (Factual Finding 14; Bus. & Prof. Code, § 10160; Cal. Code of Regs., tit. 10, § 2753.)

G. Mid Valley failed to obtain signed written statements of investor qualifications for the Flower/Fitten loan. (Factual Finding 16; Bus. & Prof. Code, § 10238, subd. (f).)

Therefore, cause exists to discipline Mid Valley's real estate broker license pursuant to Business and Professions Code section 10177, subdivision (d), based on each of the above violations.

11. A real estate broker license may be disciplined for "[d]emonstrated negligence or incompetence in performing an act for which he or she is required to hold a license." (Bus. & Prof. Code, § 10177, subd. (g).) The acts described in Legal Conclusions 10A through 10G, individually and collectively, demonstrate Mid Valley's negligence or incompetence, and each act constitutes cause to discipline Mid Valley's real estate broker license pursuant to Business and Professions Code section 10177, subdivision (g).

12. As the designated officer on Mid Valley's real estate broker license, Mr. Korth is responsible for Mid Valley's real estate activities. (Bus. & Prof. Code, § 10159.2, subd. (a).) Therefore, each of Mid Valley's violations of the Real Estate Law and regulations adopted pursuant to it discussed in Legal Conclusions 10A through 10G constitutes separate cause to discipline Mr. Korth's real estate broker license pursuant to Business and Professions Code section 10177, subdivision (d), as that statute relates to Business and Professions Code section 10159.2, subdivision (a). Those same violations, individually and

collectively, constitute separate cause to discipline his individual license pursuant to Business and Professions Code section 10177, subdivision (h), for failure to exercise resalable supervision and control over Mid Valley's real estate activities.

13. For the reasons discussed in Legal Conclusion 12, Mr. Korth's real estate broker license is subject to discipline pursuant to Business and Professions Code section 10177, subdivision (g), for "[d]emonstrated negligence or incompetence in performing an act for which he . . . is required to hold a license."

14. For the reasons explained in Legal Conclusions 8, 10, and 11, individually and collectively, cause exists to discipline Mid Valley Services, Inc.'s, real estate broker license. Cause also exists to discipline Mr. Korth's real estate broker license for the reasons explained in Legal Conclusions 12 and 13, individually and collectively. As discussed in Factual Finding 20, however, Mr. Korth presented sufficient evidence to demonstrate that he and Mid Valley are capable of continuing to perform real estate transactions in a manner that is consistent with public health, safety, and welfare, on a restricted basis. While the discipline proposed by complainant's counsel at hearing might be appropriate in other circumstances, an independent review of the evidence revealed that a negative account balance existed in Trust 1 for more than the one-month period Mr. Korth testified to. (Factual Finding 10.) Therefore, Mid Valley and Mr. Korth's respective licenses should each be revoked and they both should be issued restricted licenses, subject to the terms and conditions specified in the order below.

Award of Costs of Audit

15. A real estate broker shall reimburse the Department for the cost of an audit after the Department issues a final decision finding that the broker violated Business and Professions Code section 10145 or any rule or regulation interpreting that statute.

¶...¶

(b) The commissioner shall charge a real estate broker for the cost of any audit, if the commissioner has found, in a final desist and refrain order issued under Section 10086 or in a final decision following a disciplinary hearing held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that the broker has violated Section 10145 or a regulation or rule of the commissioner interpreting Section 10145.

(c) If a broker fails to pay for the cost of an audit as described in subdivision (b) within 60 days of mailing a notice of billing, the commissioner may suspend or revoke the broker's license or deny renewal of the broker's license. The suspension or denial shall remain in effect until the cost is paid or until the broker's

right to renew a license has expired.

The commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost incurred by the commissioner for an audit, the commissioner may use the estimated average hourly cost for all persons performing audits of real estate brokers.

(Bus. & Prof. Code, § 10148.)

For the reasons discussed in Legal Conclusions 10B, 10C, and 11, individually and collectively, cause exists to discipline Mid Valley's real estate broker license based on its violations of Business and Professions Code section 10145, subdivision (a). Therefore, Mid Valley is required to reimburse the Department for the cost of Mr. Leonard's audit within 60 days of the Department's mailing a notice of billing as a matter of law. (Bus. & Prof. Code, § 10148, subds. (b) and (c).)

ORDER

1. All licenses and licensing rights of respondent Mid Valley Services, Inc., under the Real Estate Law are REVOKED; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

a. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

b. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

c. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

d. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest. Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

e. Respondent shall file with the Department of Real Estate a surety bond in the amount of \$75,000 in such form and condition as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect.

2. All licenses and licensing rights of respondent Larry Charles Korth under the Real Estate Law are REVOKED; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

a. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

b. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

c. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

d. Respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.


e. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

f. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest. Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

g. Respondent shall file with the Department of Real Estate a surety bond in the amount of \$75,000 in such form and condition as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect.

3. Pursuant to Business and Professions Code section 10148, respondent Mid Valley Services, Inc., shall pay the Commissioner's reasonable cost for: a) the audit which led to this disciplinary action, and (b) a subsequent audit to determine if respondent has corrected the trust fund violations found in Legal Conclusions 10B, 10C, and 11. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with Section 11500, et seq. of the Government Code if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between respondent and the Commissioner. The suspension shall remain in effect until payment is made in full, respondent enters into a payment plan that is satisfactory to the Commissioner, or a decision providing otherwise is adopted following a hearing held pursuant to this condition.

DATED: November 2, 2012



COREN D. WONG
Administrative Law Judge
Office of Administrative Hearings

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789
5
6
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 TO:

12 MID VALLEY SERVICES, INC.

13) NO. H-2544 FR
14) NOTICE CONCERNING
15) COSTS OF AUDITS

16 The attached Decision contains a determination by the Real Estate Commissioner
17 that you have either violated Section 10145 of the Business and Professions Code or a
18 regulation of the Commissioner interpreting Section 10145, or both. Section 10148 of the
19 Business and Professions Code provides that if this finding(s) becomes final, the Commissioner
20 may charge you for the costs of any audits conducted as a result of the violations found herein.
21 Enclosed for your reference is a copy of the provisions of Section 10148 of the Business and
22 Professions Code.

23 DATED: December 12, 2012
24

25 
26 JOHN W. BARRON
27 Real Estate Counsel