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DEPARTMENT OF REAL ESTATE

By *Victoria Dillon*  
Victoria Dillon

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	
	)	
GENE LEROY SAHLIE,	)	NO. H-6907 SF
MID-CAL FUNDING, INC., and	)	
MARTIN WILLIAM HUMPHREY,	)	OAH NO. N-43174
	)	
Respondents.	)	

DECISION AFTER RECONSIDERATION

The Proposed Decision dated December 30, 1993, of the Administrative Law Judge of the Office of Administrative hearings has been considered by me.

Pursuant to Section 11517(b) of the Government Code of the State of California, the disciplinary action imposed upon Respondent MARTIN WILLIAM HUMPHREY is reduced by modifying the Order of the Proposed Decision to be as follows:

ORDER

I

All licenses and licensing rights of Respondent MARTIN WILLIAM HUMPHREY under the Real Estate Law are revoked; provided,

1 however, that a restricted real estate broker license shall be issued  
2 to Respondent pursuant to Business and Professions Code Section  
3 10156.5 if Respondent makes application therefor and pays to the  
4 Department the appropriate fee for said license within sixty (60)  
5 days from the effective date of this Decision. The restricted  
6 license issued to Respondent shall be subject to all of the  
7 provisions of Section 10156.7 of the Business and Professions Code  
8 and to the following limitations, conditions, and restrictions  
9 imposed under authority of Section 10156.6 of the Code:

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

15 B. The restricted license issued to Respondent may be  
16 suspended prior to hearing by Order of the Real Estate Commissioner  
17 on evidence satisfactory to the Commissioner that Respondent has  
18 violated provisions of the California Real Estate Law, the Subdivided  
19 Lands Law, Regulations of the Real Estate Commissioner or conditions  
20 attaching to the restricted license.

21 C. Respondent shall not be eligible to apply for the  
22 issuance of an unrestricted real estate license nor for the removal  
23 of any of the conditions, limitations or restrictions of a restricted  
24 license until (1) year has elapsed from the effective date of this  
25 Decision.

26 D. Respondent shall, within nine (9) months from the  
27 effective date of the Decision, present evidence satisfactory to the

1 Real Estate Commissioner that he has, since the most recent issuance  
2 of an original or renewal real estate license, taken and successfully  
3 completed the continuing education requirements of Article 2.5 of  
4 Chapter 3 of the Real Estate Law for renewal of a real estate  
5 license. If Respondent fails to satisfy this condition, the  
6 Commissioner may order the suspension of the restricted license until  
7 Respondent presents such evidence. The Commissioner shall afford  
8 Respondent the opportunity for a hearing pursuant to the  
9 Administrative Procedure Act to present such evidence.

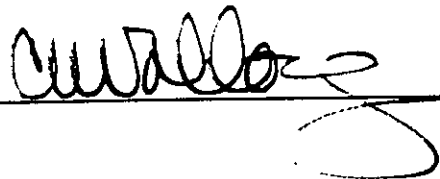
10 E. Respondent shall, within six (6) months from the  
11 effective date of the restricted license, take and pass the  
12 Professional Responsibility Examination administered by the  
13 Department including the payment of the appropriate examination fee.  
14 If Respondent fails to satisfy this condition, the Commissioner may  
15 order suspension of the restricted license until Respondent passes  
16 the examination.

17 Except as hereby modified and amended, the Proposed  
18 Decision dated December 30, 1993, is hereby adopted as the Decision  
19 of the Real Estate Commissioner.

20 This Decision shall become effective at 12 o'clock  
21 noon on March 29, 1994.

22 IT IS SO ORDERED 3/8, 1994.

23 CLARK WALLACE  
24 Real Estate Commissioner

25   
26  
27



1           The Decision of January 24, 1994, shall become effective  
2 at 12 o'clock noon on March 18, 1994.

3           DATED: February 16, 1994.

4                           CLARK WALLACE  
5                           Real Estate Commissioner

6                           *Les R. Bettencourt*  
7                           By: LES R. BETTENCOURT  
8                           Deputy Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By Victoria Dillon  
Victoria Dillon

\* \* \*

In the Matter of the Accusation of )  
 )  
GENE LEROY SAHLIE, )  
MID-CAL FUNDING, INC. and )  
MARTIN WILLIAM HUMPHREY, )  
 )  
Respondent (s). )  
\_\_\_\_\_ )

No. H- 6907 SF  
OAH N 43174

DECISION

The Proposed Decision dated December 30, 1994,  
of the Administrative Law Judge of the Office of Administrative  
Hearings is hereby adopted as the decision of the Real Estate  
Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon  
on February 16, 19 94.

IT IS SO ORDERED 1/24, 19 94.

CLARK WALLACE  
Real Estate Commissioner

Clark Wallace



IV

At all times material, Mid-Cal was licensed by the Department as a real estate corporation acting through Humphrey as its designated officer with its business address located at 1025 N. Dutton Avenue, Santa Rosa, California.

V

At all times material, Humphrey was licensed as a real estate broker by the Department in his individual capacity and as the designated officer of Mid-Cal.

VI

At all times material, respondents engaged in the business and acted in the capacity of real estate licensees in the State of California within the meaning of section 10131(d) of the Code, including the operation of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property and loans were arranged, negotiated, processed, and consummated on behalf of others, all for or in expectation of compensation.

VII

As the designated officer of Mid-Cal, Humphrey was responsible for the supervision and control of the activities conducted on behalf of Mid-Cal by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law.

VIII

On or about January 17, 1991, Mid-Cal hired John Fenyes as a real estate salesperson. Although Fenyes had recently passed the real estate exam, a real estate license has not been issued to him by the Department as of October 4, 1993.

FIRST CAUSE FOR DISCIPLINE

IX

Beginning approximately June 1990 Mid-Cal employed and compensated Sahlie, and beginning approximately January 1991 Mid-Cal employed and compensated Fenyes for soliciting or performing services for borrowers, buyers, lenders, sellers and/or property owners, including but not limited to obtaining loans to be secured by liens on real property, for or in expectation of compensation in the transactions set out below, at a time that



neither of them was licensed by the Department as a real estate salesperson or broker.

Date	Borrower	Property
2/91	Hrycyna	6970 Giusti Rd., Forestville, CA.
2/91	Kendall	3509 Barnes Rd., Santa Rosa, CA.
6/91	Robertson	3314 Jeremy Ct., Santa Rosa, CA.

X

Beginning in at least February 1991, Sahlie was conducting his real estate licensed activities under the business name of Sahlie Financial Services (SFS). When Fenyes was hired by Mid-Cal in January 1991, he also conducted his licensed activities under the name of SFS.

XI

At all times mentioned herein, SFS was neither licensed with the Department as a real estate broker nor listed as a fictitious business name on the license of Mid-Cal or Humphrey. Nevertheless, during this time respondents were engaged in a mortgage loan brokerage business using the fictitious name of Sahlie Financial Services.

XII

Beginning in at least June 1990 Sahlie and Fenyes were conducting their real estate licensed activities from an office located at 2050 W. Steele Lane, Suite C-2, Santa Rosa, California. During that time, respondents had not applied for and procured an additional license from the Department for the branch office.

#### SECOND CAUSE FOR DISCIPLINE

XIII

In connection with the Hrycyna transaction, on or about April 26, 1991, Fenyes represented to Hrycyna that close of escrow for her loan would take place on approximately May 10, 1991. At that time, Fenyes requested that Hrycyna pay the sum of \$2,400 to Fenyes, on behalf of SFS as advance commission for their services in obtaining the loan. Fenyes and Sahlie told Hrycyna that if she did not pay the commission in advance as requested, she would not get the loan she applied for.

XIV

As requested Hrycyna gave a check to Fenyes for \$2,400 on April 26, 1991. The check was payable to SFS. It was deposited by SFS into a general checking account with Exchange Bank, account #10-028570 (account #570) on April 26, 1991.

XV

On or about April 29, 1991, Hrycyna learned that the loan she had applied for through SFS had not been approved by the lender and that there was in fact no escrow open for the loan.

XVI

In May 1991, Hrycyna demanded a return of her \$2,400. Respondents refused to refund the money; however, Fenyes agreed to deliver the appraisal report which had been prepared for the Giusti Road. property to Hrycyna in exchange for an agreement to execute a mutual release of liability. On or about May 17, 1991 Hrycyna and Fenyes, on behalf of SFS, signed a mutual release of liability and termination of contractual relations.

XVII

Hrycyna's \$2,400 payment represents the demand and collection of an advance fee, as that term is defined in section 10026 of the Code. Respondents' collection of the advance fee set out above was not done pursuant to an advance fee contract approved by the Department prior to its use, as required by section 10085 of the Code and section 2970 of the Regulations. Respondents have never given Hrycyna a verified accounting for the advance fee as required by section 10146 of the Code.

THIRD CAUSE FOR DISCIPLINE

XVIII

In connection with the Kendall transaction, Kendall completed a loan application and returned it to Fenyes on or about March 8, 1991, with a check for \$45.00 as advance payment for a credit report. The check was made payable to SFS. It was deposited by SFS into account #570 on March 8, 1991.

XIX

On or about May 17, 1991 escrow for the Kendall loan closed and Allied Savings Bank paid a \$2,100 commission to SFS, which was deposited to account #570 on approximately May 20, 1991.

XX

In connection with Fenyes' representations to Kendall that they could save money by participating in a "mortgage reduction plan," on or about May 30, 1991 Kendall gave Fenyes checks for \$225 and \$1,042 payable to SFS as funds required to participate in the "Bi-weekly Debit Authorization Mid-Cal Mortgage Reduction" plan. The \$225 and \$1,042 paid by Kendall to SFS was "trust funds" as that term is defined in section 10145 of the

Code. Both checks were deposited by SFS into account #570. Kendall continued to make the payments on the loan required under the mortgage reduction plan.

#### XXI

On approximately August 7, 1991, Kendall was notified by First Union Mortgage Corporation that their loan from Allied Savings Bank was in default. Neither Allied Savings Bank nor First Union Mortgage Corporation offered or participated in mortgage reduction plans such as the one represented to Kendall by Fenyes, as set out above.

#### FOURTH CAUSE FOR DISCIPLINE

#### XXII

In connection with the Robertson transaction, Robertson's completed loan application was returned to Fenyes on or about June 13, 1991 with a check for \$45 as advance payment for a credit report. The check was made payable to SFS and it was deposited by SFS into account #570. Robertson terminated his transaction with SFS before the date set for close of escrow.

#### FIFTH CAUSE FOR DISCIPLINE

#### XXIII

At all times mentioned herein, Humphrey failed to exercise reasonable supervision and control of the activities of Mid-Cal for which a real estate license is required and was negligent in performing acts for which a real estate license is required, in that he should have known all the facts found above and he should have taken steps to assure the full compliance of Mid-Cal's employees and agents with the Real Estate Law.

#### ADDITIONAL FINDINGS

#### XXIV

Sahlie has been in the real estate business since approximately 1986. Since December 1991 he has worked for real estate mortgage brokerage companies in Santa Rosa.

In 1990 Sahlie entered into an arrangement with Wayne Dufloth whereby Dufloth and Sahlie were to operate a mortgage brokerage business under Humphrey's corporate license, Mid-Cal. Humphrey had known Dufloth for several years, considered him an experienced underwriter and a trustworthy person. Humphrey agreed to serve as the licensee with Dufloth managing the business. Humphrey would review transactions approximately 2 to 4 times per month, but otherwise took no part in the daily activities of the company or its operation. Dufloth was not a real estate licensee.

Humphrey did not authorize Mid-Cal to receive advance fees or to receive fees for credit checks. Borrowers' checks were to be made payable to the credit bureau. However, Sahlie did not follow such practice, instead he directed borrowers to make such checks payable to SFS. These funds were not placed in a trust account, but in SFS's general business account.

Sahlie contends that it was upon Dufloth's advice that he provided Hrycyna with an appraisal report only on the condition Hrycyna release respondents from all liability and that he refused to refund her the \$2,400. However, the evidence established that Sahlie and Fenyes defrauded Hrycyna out of \$2,400 in that respondents represented to her that the money was their loan fee, that the loan had been approved. In fact the loan was not approved and when Hrycyna demanded a refund, respondents contended the \$2,400 was for past services rendered in connection with their efforts to secure a loan. At no time did Hrycyna agree to such a fee arrangement; she only agreed to pay a fee to SFS upon its actually obtaining a loan for her. Hrycyna paid SFS the \$2,400 after Sahlie and Fenyes represented to her that she would not get her loan unless she paid them the \$2,400.

Hrycyna filed an action in the Sonoma County Superior Court, seeking damages against Sahlie, Humphrey and others. In August 1992 the matter was dismissed as to Humphrey and Sahlie after Sahlie reimbursed Hrycyna the \$2,400.

Sahlie's primary explanation of the violations found herein is that he was unaware of various legal requirements governing the operation of his business and he relied heavily on Dufloth.

Humphrey has been a broker since 1979. He disassociated from Mid-Cal in June 1993. Humphrey is very troubled by the above described events. He acknowledges that he should have been aware of the activities of Dufloth and Sahlie.

#### DETERMINATION OF ISSUES

##### FIRST CAUSE FOR DISCIPLINE

###### I

Cause was established for discipline against Humphrey and Mid-Cal under sections 10161.8, 10137 and 10177(d), 10159.5, 10163, 10165 of the Code and sections 2731 and 2752 of the Regulations.

###### II

Cause was established for discipline against Sahlie under sections 10130 and 10177(d) of the Code.

SECOND CAUSE FOR DISCIPLINE

III

Cause was established for discipline against Mid-Cal under sections 10176(a), (e) and (i), 10146, 10177(d) of the Code and Regulation 2970.

THIRD CAUSE FOR DISCIPLINE

IV

Cause was established for discipline against Mid-Cal under sections 10176(e), 10177(d) and 10145 of the Code and section 2830 of the Regulations.

FOURTH CAUSE FOR DISCIPLINE

V

Cause was established for discipline against Mid-Cal under section 10176(e) of the Code.

FIFTH CAUSE FOR DISCIPLINE

VI

Cause was established for discipline against Humphrey under sections 10177(g) and (h) of the Code.

ORDER

1. Mid-Cal Funding Inc.'s real estate licenses and license rights are revoked.

2. The real estate licenses of Gene Leroy Sahlie are revoked, provided, however, a restricted real estate salesperson license shall be issued to Sahlie pursuant to section 10156.5 of the Code if he makes application thereof and pays the appropriate fee to the Department within 60 days of 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 Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of the Code:

A. The restricted real estate license issued to respondent pursuant to this Decision is suspended for 30 days from the date of issuance of said restricted license.

B. Sahlie shall make restitution to the Kendalls in the amount of \$1,267, and shall, within 30 days after the issuance to him of a restricted license, submit proof to the satisfaction of the Real Estate Commissioner that the Kendalls have

been reimbursed the \$1,267. If Sahlie fails to timely comply with this condition the restricted license shall be revoked without further order of the Commissioner, effective on the 31st day after the issuance of the restricted license.

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

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

E. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

(1) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(2) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

F. 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.

G. 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.

3. All licenses and licensing rights of respondent Humphrey 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 Code if respondent makes application therefor and pays to the Department the appropriate fee for the restricted license within 60 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 Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of the Code:

A. The restricted real estate license issued to respondent pursuant to this Decision shall be suspended for 60 days from the date of the issuance of said restricted license.

B. The restricted license issued to respondent may be suspended prior to hearing by Order of the 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.


C. The restricted license issued to respondent may be suspended prior to hearing by Order of the 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.

D. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the 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.

E. 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 he passes the examination.

Dated:

December 30, 1993.

  
ROBERT R. COFFMAN  
Administrative Law Judge

See  
Decision  
after  
Revised  
statute

**COPY**

*Alogne*

**FILED**

**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

JUL 26 1993  
DEPARTMENT OF REAL ESTATE

*In the Matter of the Accusation of*

GENE LEROY SAHLIE,  
MID-CAL FUNDING, INC., and  
MARTIN WILLIAM HUMPHREY,

}

By *Victoria Dillon*

Case No. H-6907 SF Victoria Dillon

OAH No. N 43174

*Respondent*

**NOTICE OF HEARING ON ACCUSATION**

**To the above named respondent:**

**You are hereby notified** that a hearing will be held before the Department of Real Estate at \_\_\_\_\_

OFFICE OF ADMINISTRATIVE HEARINGS

455 Golden Gate Avenue, Room 2248, San Francisco, CA 94102

on October 28 and October 29, 1993 (2 Days Hearing) at the hour of 9:00 a.m.,  
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: July 26, 1993

By *John Van Driel*  
JOHN VAN DRIEL, Counsel

*nd*



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1 JOHN VAN DRIEL, Counsel  
2 Department of Real Estate  
3 185 Berry Street, Room 3400  
4 San Francisco, CA 94107-1770

5 Telephone: (415) 904-5917

FILED  
APR 20 1993

DEPARTMENT OF REAL ESTATE

By *Victoria Dillon*  
Victoria Dillon

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 GENE LEROY SAHLIE, )  
13 MID-CAL FUNDING, INC., and )  
14 MARTIN WILLIAM HUMPHREY, )  
Respondents. )

No. H-6907 SF

ACCUSATION

15 The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of Accusation  
17 against GENE LEROY SAHLIE, MID-CAL FUNDING, INC., and MARTIN  
18 WILLIAM HUMPHREY, (Respondents) is informed and alleges as  
19 follows:

20 PRELIMINARY ALLEGATIONS

21 I

22 The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate  
23 Commissioner of the State of California, makes this Accusation in  
24 his official capacity and not otherwise.

25 II

26 GENE LEROY SAHLIE (Sahlie), MID-CAL FUNDING, INC.  
27

1 (Mid-Cal), and MARTIN WILLIAM HUMPHREY (Humphrey) are presently  
2 licensed and/or have license rights under the Real Estate Law  
3 (Part 1 of Division 4 of the Business and Professions Code)  
4 (Code).

5 III

6 Sahlie was licensed by the Department of Real Estate of  
7 the State of California (Department) as a real estate salesperson  
8 employed by Ernest Hubert on or about July 19, 1989. He was  
9 terminated from Hubert's employment on or about August 15, 1990  
10 and had no broker affiliation from August 16, 1990 through  
11 December 12, 1991 and was therefor ineligible to perform acts  
12 requiring a real estate license during that period.

13 IV

14 At all times mentioned herein, Mid-Cal was licensed by  
15 the Department as a real estate corporation acting through  
16 Humphrey as its designated officer with its business address  
17 located at 1025 N. Dutton Ave., Santa Rosa, California.

18 V

19 At all times mentioned herein, Humphrey was licensed as  
20 a real estate broker by the Department in his individual capacity  
21 and as the designated officer of Mid-Cal.

22 VI

23 At all times mentioned herein, Respondents engaged in  
24 the business and acted in the capacity of real estate licensees in  
25 the State of California within the meaning of Section 10131(d) of  
26 the Code, including the operation of a mortgage loan brokerage  
27 business with the public wherein lenders and borrowers were

1 solicited for loans secured directly or collaterally by liens on  
2 real property and loans were arranged, negotiated, processed, and  
3 consummated on behalf of others, all for or in expectation of  
4 compensation.

5 VII

6 As the designated officer of Mid-Cal, Humphrey was  
7 responsible for the supervision and control of the activities  
8 conducted on behalf of Mid-Cal by its officers and employees as  
9 necessary to secure full compliance with the provisions of the  
10 Real Estate Law.

11 VIII

12 On or about January 17, 1991 Mid-Cal hired John Fenyes  
13 (Fenyes) as a real estate salesperson. Although Fenyes had  
14 recently passed the real estate exam, a real estate license has  
15 not been issued to him by the Department as of the date of this  
16 Accusation.

17 FIRST CAUSE OF ACCUSATION

18 IX

19 Beginning approximately June 1990 Mid-Cal employed and  
20 compensated Sahlie, and beginning approximately January 1991 Mid-  
21 Cal employed and compensated Fenyes for soliciting or performing  
22 services for borrowers, buyers, lenders, sellers and/or property  
23 owners, including but not limited to obtaining loans to be secured  
24 by liens on real property, for or in expectation of compensation  
25 in the transactions set out below, at a time that neither of them  
26 was licensed by the Department as a real estate salesman or  
27 broker.

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<u>Date</u>	<u>Borrower</u>	<u>Property</u>
2/91	Hrycyna	6970 Giusti Rd., Forestville, CA.
2/91	Kendall	3509 Barnes Rd., Santa Rosa, CA.
6/91	Robertson	3314 Jeremy Ct., Santa Rosa, CA.

X

Beginning in at least June 1990 Sahlie was conducting his real estate licensed activities under the business name of Sahlie Financial Services (SFS). When Fenyes was hired by Mid-Cal in January 1991 he also conducted his licensed activities under the name of SFS.

XI

At all times mentioned herein, SFS was neither licensed with the Department as a real estate broker nor listed as a fictitious business name on the license of Mid-Cal or Humphrey. Nevertheless, during this time Respondents were engaged in a mortgage loan brokerage business using the fictitious name of Sahlie Financial Services.

XII

Beginning in at least June 1990 Sahlie and Fenyes were conducting their real estate licensed activities from an office located at 2050 W. Steele Lane, Suite C-2, Santa Rosa, California. During that time, Respondents had not applied for and procured an additional license from the Department for the branch office.

SECOND CAUSE OF ACCUSATION

XIII

The allegations of paragraphs I through XII are incorporated herein.

XIV

1  
2 In connection with the Hrycyna transaction, on or about  
3 April 26, 1991 Fenyes represented to Hrycyna that close of escrow  
4 for her loan would take place on approximately May 10, 1991. At  
5 that time, Fenyes requested that Hrycyna pay the sum of \$2,400 to  
6 Fenyes, on behalf of SFS as advance commission for their services  
7 in obtaining the loan. Fenyes and/or Sahlie told Hrycyna that if  
8 she did not pay the commission in advance as requested, she would  
9 not get the loan she applied for.

XV

10  
11 Hrycyna gave a check to Fenyes for \$2,400 as requested  
12 above on April 26, 1991. The check was made payable to SFS. It  
13 was deposited by SFS into a general checking account with Exchange  
14 Bank, account # 10-028570 (account # 570) on April 26, 1991.

XVI

15  
16 On or about April 29, 1991 Hrycyna learned that the loan  
17 she had applied for through SFS had not been approved by a lender  
18 and that there was, in fact, no escrow open for the loan.

XVII

19  
20 Hrycyna demanded a return of her \$2,400 on or about May  
21 17, 1991. Respondents refused to refund the money, however Feynes  
22 agreed to deliver the appraisal report which had been prepared for  
23 the Giusti Rd. property to Hrycyna in exchange for an agreement to  
24 execute a mutual release of liability. On or about May 17, 1991  
25 Hrycyna and Fenyes, on behalf of SFS, signed a mutual release of  
26 liability and termination of contractual relations.

27 ///

XVIII

1  
2 Hrycyna's \$2,400 payment, as described above, represents  
3 the demand and collection of an advance fee, as that term is  
4 defined in Section 10026 of the Code. Respondents' collection of  
5 the advance fee set out above was not done pursuant to an advance  
6 fee contract approved by the Department prior to its use, as  
7 required by Section 10085 of the Code and Section 2970 of the  
8 Regulations. Respondents have never given Hrycyna a verified  
9 accounting for the advance fee as required by Section 10146 of the  
10 Code.

11 THIRD CAUSE OF ACCUSATION

12 XIX

13 The allegations of paragraphs I through XII are  
14 incorporated herein.

15 XX

16 In connection with the Kendall transaction, Kendall  
17 completed a loan application and returned it to Fenyes on or about  
18 March 8, 1991 with a check for \$45.00 as advance payment for a  
19 credit report. The check was made payable to SFS. It was  
20 deposited by SFS into account # 570 on March 8, 1991.

21 XXI

22 On or about May 17, 1991 escrow for the Kendall loan  
23 closed and Allied Savings Bank paid a \$2,100. commission to SFS,  
24 which was deposited to account # 570 on approximately May 20,  
25 1991.

26 XXII

27 In connection with Fenyes' representations to Kendall

1 that they could save money by participating in a "mortgage  
2 reduction plan", on or about May 30, 1991 Kendall gave Fenyes  
3 checks for \$225.00 and \$1,042.00 payable to SFS as funds required  
4 to participate in the "Bi-Weekly Debit Authorization Mid-Cal  
5 Mortgage Reduction" plan. The \$225 and \$1,042 paid by Kendall to  
6 SFS was "trust funds" as that term is defined in Section 10145 of  
7 the Code. Both checks were deposited by SFS into account # 570.  
8 Kendall continued to make the payments on the loan required under  
9 the mortgage reduction plan.

10

XXIII

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On approximately August 7, 1991 Kendall was notified by  
12 First Union Mortgage Corporation that their loan from Allied  
13 Savings Bank was in default. Kendall determined at that time that  
14 neither Allied Savings Bank nor First Union Mortgage Corporation  
15 offered or participated in mortgage reduction plans such as the  
16 one represented to Kendall by Fenyes, as set out above.

17

FOURTH CAUSE OF ACCUSATION

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XXIV

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The allegations of paragraphs I through XII are  
20 incorporated herein.

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XXV

22

In connection with the Robertson transaction,  
23 Robertson's completed loan application was returned to Fenyes on  
24 or about June 13, 1991 with a check for \$45.00 as advance payment  
25 for a credit report. The check was made payable to SFS and it  
26 was deposited by SFS into account # 570. Robertson terminated his  
27 transaction with SFS before the date set for close of escrow.





<u>Paragraph</u>	<u>Respondent</u>	<u>Violation</u>	<u>Grounds</u>
<b>(First Cause of Accusation)</b>			
I - IX	Mid-Cal & Humphrey	Reg. 2752 BPC 10161.8 BPC 10137	BPC 10177(d) BPC 10137
	Sahlie	BPC 10130	BPC 10177(d)
X & XI	Mid-Cal & Humphrey	Reg. 2731 BPC 10159.5	BPC 10177(d)
XII	Mid-Cal & Humphrey	BPC 10163	BPC 10165
<b>(Second Cause of Accusation)</b>			
XIII, XIV, XVI & XVII	Mid-Cal & Humphrey	BPC 10176(a), (i)	BPC 10176(a), (i)
XV & XVIII	Mid-Cal & Humphrey	Reg. 2970 BPC 10146 BPC 10176(e)	BPC 10177(d) BPC 10176(e)
<b>(Third Cause of Accusation)</b>			
XIX & XX	Mid-Cal & Humphrey	BPC 10176(e)	BPC 10176(e)
XXII	Mid-Cal & Humphrey	Reg. 2830 BPC 10145 BPC 10176(e)	BPC 10177(d) BPC 10176(e)
XXIII	Mid-Cal & Humphrey	BPC 10176(a), (i)	BPC 10176(a), (i)
<b>(Fourth Cause of Accusation)</b>			
XXIV & XXV	Mid-Cal & Humphrey	BPC 10176(e)	BPC 10176(e)
<b>(Fifth Cause of Accusation)</b>			
XXVI-XXVII	Humphrey	BPC 10177(g), (h)	BPC 10177(g), (h)
OR, IN THE ALTERNATIVE:			
IX - XXVII	Mid-Cal, Humphrey & Sahlie		BPC 10177(g)

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WHEREFORE, the Complainant prays that a hearing be conducted on the allegations of the Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

*Edward V. Chio*

EDWARD V. CHIOLO  
Deputy Real Estate Commissioner

Dated at San Francisco, California  
this 19<sup>th</sup> day of April, 1993.