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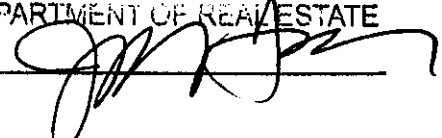
BEFORE THE DEPARTMENT OF REAL ESTATE

SEP 30 2011

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

* * * *

BY: 

In the Matter of the Accusation of)
)
DUNN RUSSELL & ASSOCIATES)
 INC.; and CLARK SCOTT)
 GOTTLIEB, individually, and)
 as designated officer for)
 Dunn Russell & Associates)
 Inc.,)
)
 Respondents.)
)

No. H-37269 LA

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on August 22, 2011, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision suspends or revokes one or more real estate licenses on the ground of the violation of the Real Estate Law (commencing with Section 10000 of the Business and Professions Code (Code)) or Chapter 1 (commencing with Section 11000 of the Code) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000 of the Code) of Part 2.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondents.

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FINDINGS OF FACT

I

On May 10, 2011, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, to Respondent's last known mailing addresses on file with the Department on May 12, 2011.

Respondent failed to file a Notice of Defense within the time required by Section 11506 of the Government Code. Respondent's default was entered herein on August 22, 2011.

II

Respondent DUNN RUSSELL & ASSOCIATES INC. is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a real estate corporation.

III

The evidence established that at all times mentioned herein Respondent engaged in the business of soliciting borrowers and lenders and negotiating the terms of loans secured by real property between borrowers and third party lenders for or in expectation of compensation, within the meaning of Code Section 10131(d).

IV

The evidence established that at all times mentioned herein Respondent engaged in the business of advance fee brokerage within the definition of Code Section 10131.2 by claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee, within the meaning of Code Section 10026, in connection with any employment undertaken to obtain a loan or loans.

V

The evidence established that Respondent engaged in advance fee activities including, but not limited to, the

following loan modification activities with respect to loans which were secured by liens on real property:

On or about July 31, 2009, Talia H. paid an advance fee of \$3950 to Respondent. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by Respondent with respect to a loan secured by the real property located at 988 S. Quincy Circle, Anaheim, California.

VI

The evidence established that Respondent collected the advance fee described in Paragraph V, above, pursuant to the provisions of an agreement which constitutes an advance fee agreement within the meaning of Code Sections 10026 and 10085.

VII

The evidence established that Respondent failed to submit the agreement referred to in Paragraph V, above, to the Commissioner ten days before using it in violation of Code Section 10085 and Section 2970, Title 10, Chapter 6, Code of Regulations ("Regulations").

VIII

The evidence established that the conduct, acts and/or omissions of Respondent, as set forth above, constitute cause for the suspension or revocation of the licenses and license rights of Respondent pursuant to Code Sections 10085, 10177(d) and 10177(g).

DETERMINATION OF ISSUES

I

Respondent DUNN RUSSELL & ASSOCIATES INC. is in violation of Code Section 10085 and Section 2970 of the Regulations, as set forth in Finding VIII, above, which justifies the suspension or revocation of its licenses and/or license rights under the provisions of Code Section 10177(d) for violation of the Real Estate Law and Section 10177(g) for negligence or incompetence.

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

The licenses and license rights of Respondent DUNN RUSSELL ASSOCIATES INC., under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at
12 o'clock noon OCT 20 2011

DATED: 9/26/11

Barbara J. Bigby
Acting Real Estate Commissioner



1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105
4 (213) 576-6982

FILED

AUG 22 2011

DEPARTMENT OF REAL ESTATE

BY: 

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

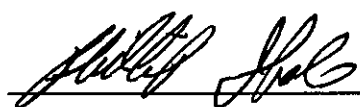
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10
11 In the Matter of the Accusation of)
12) NO. H-37269 LA
13 DUNN RUSSELL & ASSOCIATES INC.;)
14 and CLARK SCOTT GOTTLIEB,) DEFAULT ORDER
15 individually, and as designated)
16 officer of Dunn Russell &)
Associates Inc.,)
Respondent.)

17 Respondent, DUNN RUSSELL & ASSOCIATES INC., having
18 failed to file a Notice of Defense within the time required by
19 Section 11506 of the Government Code, is now in default. It
20 is, therefore, ordered that a default be entered on the record
21 in this matter.

22
23 IT IS SO ORDERED August 22, 2011

24 BARBARA J. BIGBY
25 Acting Real Estate Commissioner

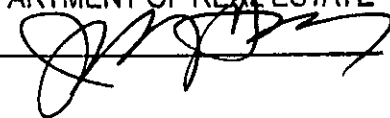
26 
27 By: PHILLIP IHDE
Regional Manager

7256

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

FILED

AUG 05 2011

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

12			
13	In the Matter of the Accusation of)		NO. H-37269 LA
14	DUNN RUSSELL & ASSOCIATES)		
15	INC.; and <u>CLARK SCOTT GOTTLIEB,</u>)		<u>STIPULATION AND AGREEMENT</u>
16	individually, and as desig-)		
17	nated officer of Dunn Russell)		
18	& Associates Inc.,)		
	Respondents.)		

19 It is hereby stipulated by and between CLARK SCOTT
20 GOTTLIEB (sometimes referred to as "Respondent") and the
21 Complainant, acting by and through Cheryl Keily, Counsel for
22 the Department of Real Estate, as follows for the purpose of
23 settling and disposing of the Accusation filed on May 12, 2011,
24 in this matter.
25

26 1. All issues which were to be contested and all
27 evidence which was to be presented by Complainant and Respondent

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act (APA), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation and Agreement.
6

7 2. Respondent has received, read and understood the
8 Statement to Respondent, the Discovery Provisions of the APA and
9 the Accusation filed by the Department of Real Estate
10 ("Department") in this proceeding.

11 3. On May 20, 2011, Respondent filed a Notice of
12 Defense, pursuant to Section 11506 of the Government Code for
13 the purpose of requesting a hearing on the allegations in the
14 Accusation. Respondent hereby freely and voluntarily withdraws
15 said Notice of Defense. Respondent acknowledges that he
16 understands that by withdrawing said Notice of Defense he will
17 thereby waive his right to require the Commissioner to prove the
18 allegations in the Accusation at a contested hearing held in
19 accordance with the provisions of the APA and that he will waive
20 other rights afforded to him in connection with the hearing,
21 such as the right to present evidence in defense of the
22 allegations in the Accusation and the right to cross-examine
23 witnesses.
24

25 4. This Stipulation is based on the factual
26 allegations contained in the Accusation. In the interest of
27

1 expedience and economy, Respondent chooses not to contest these
2 allegations, but to remain silent and understands that, as a
3 result thereof, these factual allegations, without being
4 admitted or denied, will serve as a prima facie basis for the
5 disciplinary action stipulated to herein. The Real Estate
6 Commissioner shall not be required to provide further evidence
7 to prove said factual allegations.
8

9 5. This Stipulation is made for the purpose of
10 reaching an agreed disposition of this proceeding and is
11 expressly limited to this proceeding and any other proceeding
12 or case in which the Department of Real Estate ("Department"),
13 the state or federal government, or any agency of this state,
14 another state or federal government is involved, and otherwise
15 shall not be admissible in any other criminal or civil
16 proceedings.
17

18 6. The Order or any subsequent Order of the Real
19 Estate Commissioner made pursuant to this Stipulation and
20 Agreement shall not constitute an estoppel, merger or bar to any
21 further administrative or civil proceedings by the Department of
22 Real Estate with respect to any matters which were not
23 specifically alleged to be causes for accusation in this
24 proceeding.
25

26 ///

27 ///

1 stay order and reimpose all or a portion of the stayed
2 suspension. Should no such determination be made, the stay
3 imposed herein shall become permanent.

4 2. Respondent shall, within six months from the
5 effective date of this Decision, take and pass the Professional
6 Responsibility Examination administered by the Department
7 including the payment of the appropriate examination fee. If
8 Respondent fails to satisfy this condition, the Commissioner may
9 order suspension of Respondent's license until Respondent passes
10 the examination.
11

12
13 DATED: July 6, 2011

Cheryl D. Keily
14 CHERYL D. KEILY, Counsel
15 DEPARTMENT OF REAL ESTATE

16 * * *

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

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Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number (213) 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED: 6-24-11



CLARK SCOTT GOTTLIEB
Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on _____, 2011.

IT IS SO ORDERED _____, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner

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Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number (213) 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED: _____
CLARK SCOTT GOTTLIEB
Respondent

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become
effective at 12 o'clock noon on AUG 25 2011, 2011.

IT IS SO ORDERED 8/1, 2011.


BARBARA J. BIGBY
Acting Real Estate Commissioner

1 CHERYL D. KEILY, SBN# 94008
2 Department of Real Estate
3 320 West Fourth Street, Ste. 350
4 Los Angeles, California 90013

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6905

FILED

MAY 12 2011

DEPARTMENT OF REAL ESTATE

BY: 

7
8
9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation

No. H-37269 IA

13 DUNN RUSSELL & ASSOCIATES) A C C U S A T I O N
14 INC.; and CLARK SCOTT)
15 GOTTLIEB, individually, and)
16 as designated officer of)
17 Dunn Russell & Associates)
18 Inc.,)
19 Respondents.)
20 _____)

21 The Complainant, Robin Trujillo, a Deputy Real Estate
22 Commissioner of the State of California, for cause of Accusation
23 against Respondents DUNN RUSSELL & ASSOCIATES INC. ("DUNN
24 RUSSELL"); and CLARK SCOTT GOTTLIEB ("GOTTLIEB") alleges as
25 follows:

26 1.

27 The Complainant, Robin Trujillo, a Deputy Real Estate
Commissioner of the State of California, makes this Accusation in

1 her official capacity.

2 2.

3 Respondent DUNN RUSSELL is presently licensed and/or
4 has license rights under the Real Estate Law (Part 1 of Division
5 4 of the Business and Professions Code, hereinafter "Code"), as a
6 real estate corporation.

7 3.

8 Respondent GOTTLIEB is presently licensed and/or has
9 license rights under the Real Estate Law as a real estate broker.
10 Respondent GOTTLIEB was the designated officer of Respondent DUNN
11 RUSSELL from June 10, 2009, to November 17, 2009.

12 4.

13 At all times relevant herein Respondent GOTTLIEB, as
14 the officer designated by Respondent DUNN RUSSELL pursuant to
15 Section 10211 of the Code, was responsible for the supervision
16 and control of the activities conducted on behalf of Respondent
17 DUNN RUSSELL by its officers and employees as necessary to secure
18 full compliance with the Real Estate Law as set forth in Section
19 10159.2 of the Code.

20 5.

21 Respondent GOTTLIEB ordered, caused, authorized or
22 participated in the conduct of Respondent DUNN RUSSELL, as is
23 alleged in this Accusation.
24

25 6.

26 At all times mentioned herein Respondents engaged in
27 the business of soliciting borrowers and lenders and negotiating

1 the terms of loans secured by real property between borrowers and
2 third party lenders for or in expectation of compensation, within
3 the meaning of Code Section 10131(d).

4 7.

5 At all times mentioned herein Respondents engaged in
6 the business of advance fee brokerage within the definition of
7 Code Section 10131.2 by claiming, demanding, charging, receiving,
8 collecting or contracting for the collection of an advance fee,
9 within the meaning of Code Section 10026, in connection with any
10 employment undertaken to obtain a loan or loans.

11 FIRST CAUSE OF ACCUSATION
12 (Advance Fee Violation)

13 8.

14 Respondents engaged in advance fee activities
15 including, but not limited to, the following loan modification
16 activities with respect to loans which were secured by liens on
17 real property:

18 a. On or about July 31, 2009, Talia H. paid an
19 advance fee of \$3950 to Respondent DUNN RUSSELL. The advance
20 fee was collected pursuant to the provisions of an agreement
21 pertaining to loan solicitation, negotiation, and modification
22 services to be provided by DUNN RUSSELL with respect to a loan
23 secured by the real property located at 988 S. Quincy Circle,
24 Anaheim, California.

25
26 ///

27 ///

9.

1 Respondents collected the advance fees described in
2 Paragraph 8, above, pursuant to the provisions of an agreement
3 which constitutes an advance fee agreement within the meaning of
4 Code Sections 10026 and 10085.
5

6 10.

7 Respondents failed to submit the agreement referred to
8 in Paragraph 8, above, to the Commissioner ten days before using
9 it in violation of Code Section 10085 and Section 2970, Title 10,
10 Chapter 6, Code of Regulations ("Regulations").
11

12 11.

13 The conduct, acts and/or omissions of Respondents, as
14 set forth above, are cause for the suspension or revocation of
15 the licenses and license rights of Respondents pursuant to Code
16 Sections 10085, 10177(d) and/or 10177(g).

17 SECOND CAUSE OF ACCUSATION
18 (Failure to Supervise)

19 12.

20 Complainant hereby incorporates by reference the
21 allegations set forth in Paragraphs 1 through 11, above.
22

23 13.

24 The conduct, acts and/or omissions, of Respondent
25 GOTTLIEB, in allowing Respondent DUNN RUSSELL to violate the Real
26 Estate Law, as set forth above, constitutes a failure by
27 Respondent GOTTLIEB, as the officer designated by a corporate
broker licensee, to exercise the supervision and control over the

1 activities of Respondent DUNN RUSSELL, as required by Code
2 Section 10159.2, and is cause to suspend or revoke the real
3 estate licenses and license rights of Respondent GOTTLIEB under
4 Code Sections 10177(d), 10177(g) and/or 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 all the licenses and license rights of Respondent
9 DUNN RUSSELL & ASSOCIATES INC. and Respondent CLARK SCOTT
10 GOTTLIEB under the Real Estate Law (Part 1 of Division 4 of the
11 Business and Professions Code), and for such other and further
12 relief as may be proper under other applicable provisions of law.

13 Dated at Los Angeles, California

14 this 10 day of May, 2011.

15
16
17 
18 Robin Trujillo
19 Deputy Real Estate Commissioner
20
21
22
23
24

25 cc: DUNN RUSSELL & ASSOCIATES INC.
26 CLARK SCOTT GOTTLIEB
27 Robin Trujillo
Sacto.