FILED

JAN 11 2011

DEPARTMENT OF REAL ESTATE

By K. Mat

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of DAWN M. MILLER, Respondent.	)	H-4137 SD

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 December 28, 2010, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes a real estate license and/or license rights on grounds of violation of Sections 10085 (prior approval of advance fee agreement materials), 10085.6 (collection of unauthorized advance fees), 10130 (license requirement to act as real estate broker), 10131(d) (performing services for borrowers and/or lenders in connection with loans secured by real property), 10131.2 (collection of advance fees), 10137 (acceptance of compensation from someone other than employing broker) and 10177(j) (other conduct which constitutes fraud or dishonest dealing) of the California Business and Professions Code, and Sections 2970 (submission of advance fee materials) and 2972 (content of verified accounting) of Title 10, Chapter 6, California Code of Regulations.

The right to reinstatement of a revoked real estate license 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 Respondent.

FINDINGS OF FACT

1

On August 24, 2010, Joseph Aiu made the Accusation in his 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, return receipt requested, to Respondent's last known mailing address on file with the Department on August 26, 2010.

On December 28, 2010, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part I of Division 4, of the California Business and Professions Code ("the Code") as a real estate salesperson. At no time has Respondent been licensed as a real estate broker in the State of California.

3

At all times herein mentioned, Respondent performed services for one or more borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiate one or more loans for, or perform services for, borrowers and/or lenders with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders in connection with loans secured directly or collaterally by one or more liens on real property; and charged, demanded or collected an advance fee for any of the services offered.

4

On or about June 11, 2008, Respondent entered into a loan modification services contract with Kirk Carson. Under the terms of the agreement, Respondent agreed to negotiate a loan modification on behalf of Kirk Carson for his property located at 2113 Castillo, #A, Santa Barbara, California, in exchange for an advance fee payment of $525. On or about June 11, 2008, Kirk Carson paid the advance fee of $525 to Respondent. That advance fee was characterized as the cost for Respondent's "Fast Track Case Management" Program. Respondent never obtained a loan modification for Kirk Carson and has never refunded the advance fees he paid to her.

DETERMINATION OF ISSUES

1

Cause for disciplinary action against Respondent exists with reference to the facts set out in Paragraphs 3 and 4, above, pursuant to Business and Professions Code Sections 10085, 10085.6, 10130, 10131(d), 10131.2, 10137, 10177(d) and 10177(j) and Section 2970, Title 10, California Code of Regulations.

2

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

ORDER

All licenses and licensing rights of Respondent DAWN M. MILLER 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 on FEB 1 2011.

DATED: 1-7-11

JEFF DAVI
Real Estate Commissioner

Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

FILED

DEC 28 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

***

In the Matter of the Accusation of DAWN M. MILLER, Respondent.	H-4137 SD DEFAULT ORDER

Respondent, DAWN M. MILLER, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, is now in default. It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED December 28th, 2010.

JEFF DAVI
Real Estate Commissioner

By: Charles W. Koenig
CHARLES W. KOENIG
Northern Regional Manager

JOHN W. BARRON, Counsel (SBN 171246)
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FILED
AUG 26 2010
DEPARTMENT OF REAL ESTATE
By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

***

In the Matter of the Accusation of DAWN M. MILLER, Respondent.	No. H-4137 SD ACCUSATION

The Complainant, JOSEPH AIU, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against DAWN M. MILLER, (hereinafter "Respondent"), is informed and alleges as follows:

1

The Complainant makes this Accusation in his official capacity.

2

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "the Code") as a real estate salesperson. At no time mentioned was Respondent licensed by the Department of Real Estate as a real estate broker.

///

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3

At all times herein mentioned, Respondent performed services for one or more borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiate one or more loans for, or perform services for, borrowers and/or lenders with respect to the collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services and/or those borrowers' lenders in connection with loans secured directly or collaterally by one or more liens on real property; and charged, demanded or collected an advance fee for any of the services offered.

4

On or about June 11, 2008, Respondent entered into a loan modification services contract with Kirk Carson. Under the terms of the agreement, Respondent agreed to negotiate a loan modification on behalf of Kirk Carson for his property located at 2113 Castillo, #A, Santa Barbara, California, in exchange for an advance fee payment of $525. On or about June 11, 2008, Kirk Carson paid the advance fee of $525 to Respondent. That advance fee was characterized as the cost for Respondent's "Fast Track Case Management" Program. Respondent never obtained a loan modification for Kirk Carson and has never refunded the advance fees he paid to her.

5

By the commission of the acts alleged above, Respondent engaged in the business and acted in the capacity of a real estate broker within the State of California as defined by Sections 10130 and 10131(d) of the Code.

6

The facts alleged in Paragraphs 3 and 4, above, are grounds for the suspension or revocation of the license and license rights of Respondent under Sections 10085 (Prior Approval of Advance Fee Agreement Materials), 10085.5 (Collection of Advance Fee by Someone Other Than Real Estate Broker), 10085.6 (Collection of Unauthorized Advance Fees), 10130 (License

Requirement to Act as Real Estate Broker), 10131(d) (Performing Services for Borrowers and/or Lenders in Connection with Loans Secured by Real Property), 10131.2 (Collection of Advance Fees), 10137 (Acceptance of Compensation from Someone Other Than Employing Broker), 10177(d) (Willful Violation of Real Estate Law) and 10177(j) (Other Conduct Which Constitutes Fraud or Dishonest Dealing) of the Code, and Section 2970 (Submission of Advance Fee Materials) and 2972 (Content of Verified Accounting) of Title 10, Chapter 6, California Code of Regulations.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code, and for such other and further relief as may be proper under the provisions of law.

JOSEPH AIU
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 19 day of August, 2010.