

**FILED**

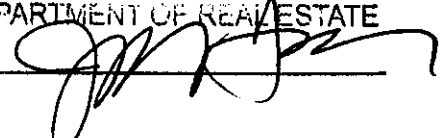
BEFORE THE DEPARTMENT OF REAL ESTATE

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

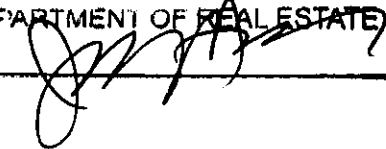
Barbara J. Bigby  
Acting Real Estate Commissioner



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: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

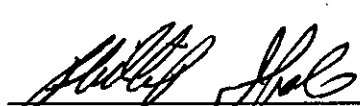
11 In the Matter of the Accusation of )  
12 ) NO. H-37269 LA  
13 DUNN RUSSELL & ASSOCIATES INC.; )  
14 and CLARK SCOTT GOTTLIEB, ) DEFAULT ORDER  
15 individually, and as designated )  
16 officer of Dunn Russell & )  
Associates Inc., )  
Respondent. )

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 IT IS SO ORDERED

August 22, 2011

23  
24 BARBARA J. BIGBY  
25 Acting Real Estate Commissioner

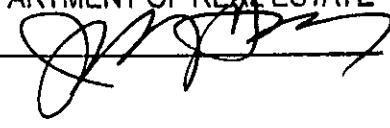
26   
27 By: PHILLIP IHDE  
Regional Manager

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

\* \* \*

In the Matter of the Accusation of )	NO. H-37269 LA
DUNN RUSSELL & ASSOCIATES )	
INC.; and <u>CLARK SCOTT GOTTLIEB,</u> )	
individually, and as desig- )	<u>STIPULATION AND AGREEMENT</u>
nated officer of Dunn Russell )	
& 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

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

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

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

1                    Respondent can signify acceptance and approval of the  
2 terms and conditions of this Stipulation and Agreement by  
3 faxing a copy of its signature page, as actually signed by  
4 Respondent, to the Department at the following telephone/fax  
5 number (213) 576-6917. Respondent agrees, acknowledges, and  
6 understands that by electronically sending to the Department a  
7 fax copy of his actual signature as it appears on the  
8 Stipulation and Agreement, that receipt of the faxed copy by  
9 the Department shall be as binding on Respondent as if the  
10 Department had received the original signed Stipulation and  
11 Agreement.  
12

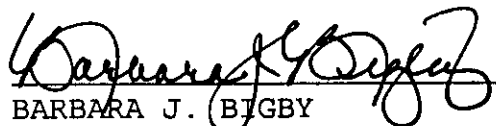
13  
14 DATED: \_\_\_\_\_

\_\_\_\_\_ CLARK SCOTT GOTTLIEB  
Respondent

15  
16 \* \* \*

17  
18                    The foregoing Stipulation and Agreement is hereby  
19 adopted as my Decision in this matter and shall become  
20 effective at 12 o'clock noon on AUG 25 2011, 2011.

21 IT IS SO ORDERED 8/1, 2011.  
22

23   
24 BARBARA J. BIGBY  
25 Acting Real Estate Commissioner  
26  
27

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

her official capacity.

2.

Respondent DUNN RUSSELL 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 "Code"), as a real estate corporation.

3.

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

4.

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

5.

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

6.

At all times mentioned herein Respondents engaged in 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 \_\_\_\_\_  
19 Robin Trujillo  
20 Deputy Real Estate Commissioner  
21  
22  
23  
24

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