

Shanberg
Mac

1 ELLIOTT MAC LENNAN, Counsel (SBN 66674)
2 Department of Real Estate
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4 Los Angeles, CA 90013-1105

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FILED
FEB 14 2006
DEPARTMENT OF REAL ESTATE

By *K. Kriederholt*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-32083 LA
12	ALLSTATE HOME LOANS INC.; and,)	
13	GREGG EVIN SHANBERG, individually)	<u>STIPULATION</u>
14	and as designated officer of)	AND
15	Allstate Home Loans Inc.)	<u>AGREEMENT</u>
16)	
	Respondents.)	

17 It is hereby stipulated by and between Respondents
18 ALLSTATE HOME LOANS INC., a corporate real estate broker, and
19 GREGG EVIN SHANBERG, individually and as designated officer of
20 Allstate Home Loans Inc., (sometimes collectively referred to as
21 "Respondents"), represented by Ross Shanberg, Esq. of Shanberg
22 Stafford LLP, and the Complainant, acting by and through Elliott
23 Mac Lennan, Counsel for the Department of Real Estate, as follows
24 for the purpose of settling and disposing of the Accusation
25 ("Accusation") filed on June 18, 2005, in this matter:
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1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondents
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act ("APA"), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement ("Stipulation").

8 2. Respondents have received, read and understand the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department of Real Estate in this
11 proceeding.

12 3. Respondents timely filed a Notice of Defense
13 pursuant to Section 11506 of the Government Code for the purpose
14 of requesting a hearing on the allegations in the Accusation.
15 Respondents hereby freely and voluntarily withdraw said Notice of
16 Defense. Respondents acknowledge that they understand that by
17 withdrawing said Notice of Defense they thereby waive their right
18 to require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that they will waive other rights
21 afforded to them in connection with the hearing such as the right
22 to present evidence in their defense the right to cross-examine
23 witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondents choose not to contest the
4 allegations which give rise to the violations stipulated to
5 herein, but to remain silent and understand that, as a result
6 thereof, these factual allegations, without being admitted or
7 denied, will serve as a prima facie basis for the disciplinary
8 action stipulated to herein. The Real Estate Commissioner shall
9 not be required to provide further evidence to prove said factual
10 allegations.

11 5. This Stipulation and Respondents decision not to
12 contest the above-referenced allegations in the Accusation is
13 made for the purpose of reaching an agreed disposition of this
14 proceeding and is expressly limited to this proceeding and any
15 other proceeding or case in which the Department of Real Estate
16 ("Department"), the state or federal government, or any agency of
17 this state, another state or federal government is involved.

18 6. It is understood by the parties that the Real
19 Estate Commissioner may adopt this Stipulation as his Decision in
20 this matter thereby imposing the penalty and sanctions on
21 Respondents' real estate licenses and license rights as set forth
22 in the "Order" herein below. In the event that the Commissioner
23 in his discretion does not adopt the Stipulation, it shall be
24 void and of no effect and Respondents shall retain the right to a
25 hearing and proceeding on the Accusation under the provisions of
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1 the APA and shall not be bound by any stipulation or waiver made
2 herein.

3 7. The Order or any subsequent Order of the Real
4 Estate Commissioner made pursuant to this Stipulation shall not
5 constitute an estoppel, merger or bar to any further
6 administrative or civil proceedings by the Department of Real
7 Estate with respect to any matters which were not specifically
8 alleged to be causes for Accusation in this proceeding but do
9 constitute a bar, estoppel and merger as to any allegations
10 actually contained in the Accusations against Respondent herein.

11 DETERMINATION OF ISSUES

12 By reason of the foregoing, it is stipulated and agreed
13 that the following determination of issues shall be made:

14 I.

15 The conduct of ALLSTATE HOME LOANS INC., as described
16 in Paragraph 4, above, is in violation of Sections 10236.4 and
17 10240(a) (failure to retain copy of the California Mortgage Loan
18 Disclosure Statement) of the Business and Professions Code
19 ("Code") and is a basis for discipline of Respondent's license
20 and license rights as a violation of the Real Estate Law pursuant
21 to Code Section 10177(g).

22 II.

23 The conduct of GREGG EVIN SHANBERG, as described in
24 Paragraph 4, above, constitutes a failure to keep Allstate Home
25 Loans Inc. in compliance with the Real Estate Law during the time
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1 that he was the officer designated by a corporate broker licensee
2 in violation of Section 10159.2 of the Code. This conduct is a
3 basis for discipline of Respondent's license pursuant to Code
4 Section 10177(h).

5 ORDER

6 WHEREFORE, THE FOLLOWING ORDER is hereby made:

7 I.

8 Respondents ALLSTATE HOME LOANS INC. and GREGG EVIN
9 SHANBERG are publicly reproved.

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11
12 DATED: 11-22-05

12 e74
13 ELLIOTT MAC LENNAN, Counsel for
14 the Department of Real Estate

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* * *

EXECUTION OF THE STIPULATION

We have read the Stipulation and discussed it with our counsel. Its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following telephone/fax number: Elliott Mac Lennan at (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondents' actual signature as they appear on the Stipulation, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation.

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NOV-22-05 TUE 11:30 AM

FAX NO.


P. 08/08

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DATED: 11/22/05


ALLSTATE HOME LOANS INC., a
corporate real estate broker,
BY: GREGG EVIN SHANBERG, D.O.,
Respondent

DATED: 11/22/05


GREGG EVIN SHANBERG individually
and as designated officer of
ALLSTATE HOME LOANS INC.,
Respondent

DATED: 11/22/05


ROSS SHANBERG, Esq. of Shanberg
Stafford LLP,
Attorney for Respondent, Approved
as to form

* * *

The foregoing Stipulation and Agreement is hereby adopted as my
Decision as to Respondents ALLSTATE HOME LOANS INC. and GREGG
EVIN SHANBERG, individually and as designated officer of Allstate
Home Loans Inc., and shall become effective at 12 o'clock noon on
_____, 2005.

IT IS SO ORDERED _____, 2005.

JEFF DAVI
Real Estate Commissioner

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DATED: _____

ALLSTATE HOME LOANS INC., a
corporate real estate broker,
BY: GREGG EVIN SHANBERG, D.O.,
Respondent

DATED: _____

GREGG EVIN SHANBERG individually
and as designated officer of
ALLSTATE HOME LOANS INC.,
Respondent

DATED: _____

ROSS SHANBERG, Esq. of Shanberg
Stafford LLP,
Attorney for Respondent, Approved
as to form

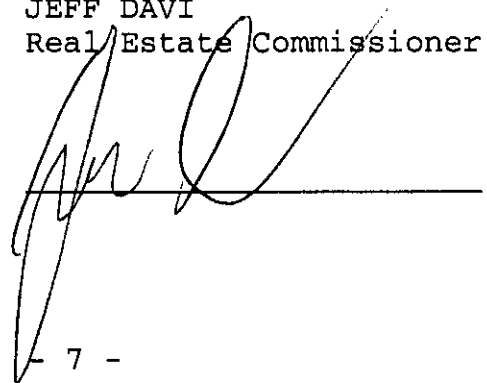
* * *

The foregoing Stipulation and Agreement is hereby adopted as my
Decision as to Respondents ALLSTATE HOME LOANS INC. and GREGG
EVIN SHANBERG, individually and as designated officer of Allstate
Home Loans Inc., and shall become effective at 12 o'clock noon on

MAR - 6 2006

IT IS SO ORDERED 2-7, 2006.

JEFF DAVI
Real Estate Commissioner



Accused

1 ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
2 Department of Real Estate
320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

FILED
JUL 18 2005
DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

11 In the Matter of the Accusation of) NO. H-32083 LA
12 ALLSTATE HOME LOANS INC. doing)
13 business as Allstate Funding, and)
14 American Union Mortgage, and)
GREGG EVIN SHANBERG, as designated) A C C U S A T I O N
officer of Allstate Home Loans Inc.,)
15)
16 Respondents.)
17)

18 The Complainant, Janice Waddell, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against ALLSTATE HOME LOANS INC., dba Allstate Funding, and dba
21 American Union Mortgage, and GREGG EVIN SHANBERG, as designated
22 officer of Allstate Home Loans Inc., alleges as follows:

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The Complainant, Janice Waddell, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against ALLSTATE HOME LOANS INC. ("ALLSTATE"), and GREGG EVIN SHANBERG ("SHANBERG").

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

LICENSE HISTORY

3.

ALLSTATE and SHANBERG (sometimes hereinafter referred to as Respondents) are presently licensed or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code").

4.

At all time herein mentioned, SHANBERG was licensed by the Department as the designated officer of ALLSTATE to qualify ALLSTATE and to act for ALLSTATE as a real estate broker and, as provided by Code Section 10159.2, was responsible for the supervision and control of the activities conducted on behalf of ALLSTATE by its officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of the salespersons licensed to

1 the corporation in the performance of acts for which a real
2 estate license is required. ALLSTATE was originally licensed as
3 a corporate real estate broker on November 13, 1992. SHANBERG
4 was originally licensed as a real estate broker on September 15,
5 1992. SHANBERG's individual real estate broker license expired
6 September 14, 1996.

7 FIRST CAUSE OF ACCUSATION

8 5.

9 Whenever reference is made in an allegation in the
10 Accusation to an act or omission of ALLSTATE such allegation
11 shall be deemed to mean that the officers, directors, managers,
12 employees, agents and real estate licensees employed by or
13 associated with ALLSTATE including SHANBERG committed such act
14 or omission while engaged in the furtherance of its business or
15 operation and while acting within the course and scope of its
16 corporate authority, agency and employment.
17

18 6.

19 At all times herein mentioned, in the City of Irvine,
20 California, ALLSTATE on behalf of others in expectation of
21 compensation, engaged in the business, acted in the capacity of,
22 advertised or assumed to act as a real estate broker within the
23 meaning of Section 10131(d) of the Code. ALLSTATE operated as a
24 mortgage and loan broker including using the fictitious business
25 names of Allstate Funding and American Union Mortgage.
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1 ALLSTATE HOME LOANS INC.

2 AUDIT REPORT LA 020331

3 7.

4 On June 24, 2003, the Department completed an audit
5 examination of the books and records of ALLSTATE HOME LOANS INC.
6 pertaining to the activities described in Paragraph 6 that
7 require a real estate license. The audit examination covered a
8 period of time beginning on January 1, 2002 through May 31,
9 2003. The audit examination revealed violations of the Code and
10 the Regulations as set forth in the following paragraphs, and
11 more fully discussed in Audit Report LA 020331 and the exhibits
12 and workpapers attached to said audit report.
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14 8.

15 At all times mentioned, in connection with the
16 activities described in Paragraph 6, above, ALLSTATE accepted or
17 received funds in trust (trust funds) from or on behalf of
18 borrowers and lenders, and thereafter made disposition of such
19 funds. Respondent ALLSTATE maintained the following trust
20 account during the audit period into which were deposited
21 certain of these funds at Wells Fargo Bank:
22

23 "Allstate Funding of Irvine, Trust Account ("T/A #1")
24 Account No. 049-621263-0

25 "Allstae Funding of Irvine, Trust Account ("T/A #2")
26 Account No. 073-2879267
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2 With respect to the activities and trust funds
3 referred to in Paragraphs 6, 7 and 8, it is alleged that

4 ALLSTATE:

5 (a) Failed to display ALLSTATE's license number on the
6 Mortgage Loan Disclosure Statements for borrowers including
7 Corona, Kina and Baylon, in violation of Code Section
8 10236.4(b).

9 (b) Failed to disclose in the Mortgage Loan Disclosure
10 Statements for borrowers Corona, Kina and Baylon, that ALLSTATE
11 received rebates from lenders for mortgage loans arranged
12 through said lenders, in violation of Code Section 10176(g) and
13 10240 and Regulation 2840. The total amount of undisclosed
14 compensation is \$14,382.41.

15 (c) Failed to provide and/or maintain a statement in
16 writing containing all the information required by Section 10241
17 of the Code to fifteen borrowers including Corona, Kina and
18 Baylon, before these borrowers became obligated to perform under
19 the terms of their loans, in violation of Code Section 10240 and
20 Regulation 2842.5; and

22 (d) Respondent SHANBERG had no system in place for
23 regularly monitoring ALLSTATE's compliance with the Real Estate
24 Law or for the supervision of ALLSTATE's salespersons, in
25 violation of Regulation 2725.

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10.

The conduct of Respondent ALLSTATE, described in Paragraph 9, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9 (a)	Code Section 10236.4(b)
9 (b)	Code Section 10176(g), 10240 and Regulation 2840
9 (c)	Code Section 10240 and Regulation 2842.5
9 (d)	Regulation 2725

Each of the foregoing violations separately constitutes cause for the suspension or revocation of the real estate license and license rights of ALLSTATE under the provisions of Code Sections 10177(d), 10177(g) and/or 10177(h).

SECOND CAUSE OF ACCUSATION

11.

The overall conduct of ALLSTATE and SHANBERG constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondents ALLSTATE and SHANBERG under the provisions of Code Section 10177(g).

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2 The overall conduct of SHANBERG, constitutes a failure
3 on his part, as officer designated by a corporate broker
4 licensee, to exercise the reasonable supervision and control
5 over the licensed activities of ALLSTATE as required by Code
6 Section 10159.2, and to keep it in compliance with the Real
7 Estate Law. This is cause for the suspension or revocation of
8 the real estate license and license rights of SHANBERG pursuant
9 to Code Sections 10177(d), 10177(g) and/or 10177(h).

10 WHEREFORE, complainant prays that a hearing be
11 conducted on the allegations of this Accusation and, that upon
12 proof thereof, a decision be rendered imposing disciplinary
13 action against all licenses and licensing rights of Respondents
14 ALLSTATE HOME LOANS INC. and GREGG EVIN SHANBERG, individually
15 and as designated officer of ALLSTATE HOME LOANS INC., under the
16 Real Estate Law (Part 1 of Division 4 of the Business and
17 Professions Code) and for such other and further relief as may
18 be proper under other applicable provisions of law.
19

20 Dated at Los Angeles, California
21 this *23 June 2005*

22
23 
Deputy Real Estate Commissioner

24 cc: Allstate Home Loans Inc.
25 Gregg Evin Shanberg
26 Janice Waddell
27 Sacto
MR
Audits - Rolly Acuna