

DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0789

FILED
FEB - 4 1994

DEPARTMENT OF REAL ESTATE

By *Maurie A. Zain*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-2928 SAC
LAI Y. KU,)	<u>STIPULATION AND</u>
WILLIAM KU,)	<u>AGREEMENT IN</u>
Respondent.)	<u>SETTLEMENT AND ORDER</u>

It is hereby stipulated by and between LAI Y. KU (hereinafter "respondent LAI") and WILLIAM KU (hereinafter "respondent WILLIAM") and their attorney, Julie B. Gustavson, and the Complainant, acting by and through David A. Peters, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on August 12, 1993 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be

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1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement in Settlement.

3 2. Respondents have received, read and understand the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

7 3. On August 24, 1993, Respondents filed a Notice of
8 Defense pursuant to Section 11505 of the Government Code for the
9 purpose of requesting a hearing on the allegations in the
10 Accusation. Respondents hereby freely and voluntarily withdraw
11 said Notice of Defense. Respondents acknowledge that they
12 understand that by withdrawing said Notice of Defense they will
13 thereby waive their right to require the Commissioner to prove
14 the allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that they will
16 waive other rights afforded to them in connection with the
17 hearing such as the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses.

20 4. Respondent LAI, pursuant to the limitations set
21 forth below, hereby admits that the factual allegations in
22 Paragraphs I through III and V through XV of the Accusation filed
23 in this proceeding are true and correct and the Real Estate
24 Commissioner shall not be required to provide further evidence to
25 prove such allegations.

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1 Respondent WILLIAM, pursuant to the limitations set
2 forth below, hereby admits that the factual allegations in
3 Paragraphs I through III and V, VI, VII and XIX through XXI of
4 the Accusation filed in this proceeding are true and correct and
5 the Real Estate Commissioner shall not be required to provide
6 further evidence to prove such allegations.

7 5. It is understood by the parties that the Real
8 Estate Commissioner may adopt the Stipulation and Agreement as
9 his decision in this matter thereby imposing the penalty and
10 sanctions on Respondents' real estate licenses and license rights
11 as set forth in the below "Order". In the event that the
12 Commissioner in his discretion does not adopt the Stipulation and
13 Agreement in Settlement, it shall be void and of no effect, and
14 Respondents shall retain the right to a hearing and proceeding on
15 the Accusation under all the provisions of the APA and shall not
16 be bound by any admission or waiver made herein.

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

24 7. Respondent LAI has received, read, and understands
25 the "Notice Concerning Costs of Subsequent Audits". Respondent
26 LAI understands that by agreeing to this Stipulation and
27 Agreement in Settlement, the findings set forth below in the

1 DETERMINATION OF ISSUES become final, and that the Commissioner
2 may charge respondent LAI for the costs of any audit conducted
3 pursuant to Section 10148 of the Business and Professions Code to
4 determine if the violations have been corrected. The maximum
5 costs of said audit will not exceed \$1,050.06.

6 DETERMINATION OF ISSUES

7 By reason of the foregoing stipulations, admissions,
8 and waivers and solely for the purpose of settlement of the
9 pending Accusation without hearing, it is stipulated and agreed
10 that the following Determination of Issues shall be made:

11 I

12 The acts and/or omissions of respondent LAI as
13 described in Paragraphs V through XV of the Accusation, violate
14 Section 10177(h) of the Business and Professions Code and Section
15 10177(d) of the Business and Professions Code in conjunction with
16 Sections 10145, 10240 and 10241 of the Business and Professions
17 Code and Sections 2830, 2831, 2831.1, 2831.2, 2731, 2725 and 2726
18 of Title 10, California Code of Regulations.

19 The acts and/or omissions of respondent WILLIAM as
20 described in Paragraphs V, VI, VII and XIX through XXI of the
21 Accusation, violate Sections 10137 of the Business and
22 Professions Code and Section 10177(d) of the Business and
23 Professions Code in conjunction with Sections 10145(c) and 10130
24 of the Business and Professions Code.

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ORDER

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- 3 A. The real estate broker license and all license rights of
- 4 respondent LAI Y. KU under the Real Estate Law are
- 5 revoked.
- 6 B. A restricted real estate broker license shall be issued
- 7 to respondent LAI pursuant to Business and Professions
- 8 Code Section 10156.5, if respondent LAI makes
- 9 application therefor and pays to the Department the
- 10 appropriate fee for said license within ninety (90) days
- 11 from the effective date of this ORDER.
- 12 C. The restricted license issued to respondent LAI shall be
- 13 subject to all the provisions of Section 10156.7 of the
- 14 Business and Professions Code and to the following
- 15 limitations, conditions and restrictions imposed under
- 16 authority of Section 10156.6 of said Code:
- 17 (1) The license shall not confer any property right in
- 18 the privileges to be exercised, and the Real Estate
- 19 Commissioner may, by appropriate order, suspend the
- 20 right to exercise any privileges granted under the
- 21 restricted license in the event of:
- 22 (a) The conviction of respondent LAI (including a
- 23 plea of nolo contendere) to a crime which
- 24 bears a significant relation to Respondent's
- 25 fitness or capacity as a real estate licensee;
- 26 or,

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1 (b) The receipt of evidence that respondent LAI
2 has violated provisions of the California Real
3 Estate Law, Subdivided Lands Law, Regulations
4 of the Real Estate Commissioner or conditions
5 attaching to the restricted license.

6 (2) Respondent LAI shall not be eligible to apply for
7 issuance of an unrestricted real estate license nor
8 the removal of any of the conditions, limitations
9 or restrictions attaching to the restricted license
10 until one (1) year has elapsed from the date of
11 issuance of a restricted license to respondent LAI.

12 D. Respondent LAI shall, within nine (9) months from the
13 effective date of this ORDER, present evidence
14 satisfactory to the Real Estate Commissioner that she
15 has, since the most recent issuance of an original or
16 renewal real estate license, taken and successfully
17 completed the continuing education requirements of
18 Article 2.5 of Chapter 3 of the Real Estate Law for
19 renewal of a real estate license. If respondent LAI
20 fails to satisfy this condition, the Commissioner may
21 order the suspension of the restricted license until
22 respondent LAI presents such evidence. The Commissioner
23 shall afford respondent LAI the opportunity for a
24 hearing pursuant to the Administrative Procedure Act to
25 present such evidence.

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- 1 E. Respondent LAI shall, within six (6) months from the
2 effective date of the restricted license, take and
3 pass the Professional Responsibility Examination
4 administered by the Department including the payment
5 of the appropriate examination fee. If respondent LAI
6 fails to satisfy this condition, the Commissioner may
7 order the suspension of the restricted license until
8 respondent LAI passes the examination.
- 9 F. Respondent shall not be allowed to be licensed as or to
10 act as a designated real estate broker officer for a
11 real estate broker corporation.
- 12 G. Any restricted real estate broker license issued to
13 Respondent may be suspended or revoked for a violation
14 by Respondent of any of the conditions attaching to the
15 restricted license.

16 II

- 17 A. The real estate salesperson license and all license
18 rights of respondent WILLIAM KU under the Real Estate
19 Law are revoked.
- 20 B. A restricted real estate salesperson license shall be
21 issued to respondent WILLIAM pursuant to Business and
22 Professions Code Section 10156.5, if respondent WILLIAM
23 makes application therefor and pays to the Department
24 the appropriate fee for said license within ninety (90)
25 days from the effective date of this ORDER.

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1 C. The restricted license issued to respondent WILLIAM
2 shall be subject to all of the provisions of Section
3 10156.7 of the Business and Professions Code and to the
4 following limitations, conditions and restrictions
5 imposed under authority of Section 10156.6 of that Code:

6 (1) The restricted license issued to respondent
7 WILLIAM may be suspended prior to hearing by Order of
8 the Real Estate Commissioner in the event of
9 Respondent's conviction or plea of nolo contendere to a
10 crime which is substantially related to Respondent's
11 fitness or capacity as a real estate licensee.

12 (2) The restricted license issued to respondent
13 WILLIAM may be suspended prior to hearing by Order of
14 the Real Estate Commissioner on evidence satisfactory to
15 the Commissioner that Respondent has violated provisions
16 of the California Real Estate Law, the Subdivided Lands
17 Law, Regulations of the Real Estate Commissioner or
18 conditions attaching to the restricted license.

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

25 (4) Respondent WILLIAM shall submit with any
26 application for license under an employing broker, or
27 any application for transfer to a new employing broker,

1 a statement signed by the prospective employing real
2 estate broker on a form approved by the Department of
3 Real Estate which shall certify:

- 4 (a) That the employing broker has read the
5 Decision of the Commissioner which granted the
6 right to a restricted license; and
7 (b) That the employing broker will exercise close
8 supervision over the performance by the
9 restricted licensee relating to activities for
10 which a real estate license is required.

11 D. Respondent WILLIAM shall, within nine (9) months from the
12 effective date of this Decision, present evidence
13 satisfactory to the Real Estate Commissioner that
14 Respondent has, since the most recent issuance of an
15 original or renewal real estate license, taken and
16 successfully completed the continuing education
17 requirements of Article 2.5 of Chapter 3 of the Real
18 Estate Law for renewal of a real estate license. If
19 Respondent fails to satisfy this condition, the
20 Commissioner may order the suspension of the restricted
21 license until the Respondent presents such evidence.
22 The Commissioner shall afford Respondent the opportunity
23 for a hearing pursuant to the Administrative Procedure
24 Act to present such evidence.

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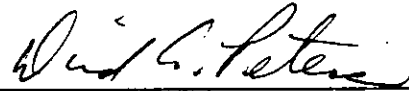
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1 E. Respondent WILLIAM shall, within six (6) months from the
2 effective date of this Decision, take and pass the
3 Professional Responsibility Examination administered by
4 the Department including the payment of the appropriate
5 examination fee.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

9 F. Any restricted real estate salesperson license issued to
10 respondent WILLIAM may be suspended or revoked for a
11 violation by Respondent of any of the conditions
12 attaching to the restricted license

13 12/2/93

14 DATED

13 

14 DAVID A. PETERS, Counsel
15 DEPARTMENT OF REAL ESTATE

16 * * *

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

1
2 December 29, 1993

3 DATED

Lai Ku
LAI Y. KU
Respondent

4
5 12/29/93

6 DATED

William Ku
WILLIAM. KU
Respondent

7 I have reviewed the Stipulation and Agreement as to
8 form and content and have advised my clients accordingly.

9 December 17, 1993

10 DATED

Julie B. Gustavson
JULIE B. GUSTAVSON
Attorney for Respondents

11 * * *

12 The foregoing Stipulation and Agreement for Settlement
13 is hereby adopted by the Real Estate Commissioner as Decision and
14 Order and shall become effective at 12 o'clock noon on
15 February 25, 1994.

16 IT IS SO ORDERED

17 1/31/94
CLARK WALLACE
Real Estate Commissioner

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

FILED
SEP - 7 1993
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

LAI Y. KU,
WILLIAM KU,

Respondent

By Laurel J. Zia
Case No. H-2928 SAC

OAH No. N-08176

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 the
Office of Administrative Hearings, 501 J Street, Suite 220 (Second
Floor Hearing Rooms), Sacramento, CA 95814
on Thursday, January 27th, 1994, at the hour of 9:00 AM,
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: September 7, 1993

By

David A. Peters
DAVID A. PETERS

Counsel

1 DAVID A. PETERS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED
AUG 12 1993

DEPARTMENT OF REAL ESTATE

By Laurie A. Zia

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-2928 SAC

12 LAI Y. KU,)
13 WILLIAM KU,)

ACCUSATION

14 Respondent.)

15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against LAI Y. KU dba Ku International Enterprises, and World
18 Trade & Finance (hereinafter "respondent LAI") and WILLIAM KU
19 (hereinafter "respondent WILLIAM") is informed and alleges as
20 follows:

21 FIRST CAUSE OF ACCUSATION

22 I .

23 The Complainant, Charles W. Koenig, a Deputy Real Estate
24 Commissioner of the State of California, makes this accusation in
25 his official capacity.

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1 II

2 Respondent **LAI** is presently licensed and/or has license
3 rights under the Real Estate Law (Part 1 of Division 4 of the
4 Business and Professions Code). At all times herein mentioned
5 respondent **LAI** was licensed as a real estate broker.

6 III

7 Respondent **WILLIAM** is presently licensed and/or has
8 license rights under the Real Estate Law (Part 1 of Division 4 of
9 the Business and Professions Code) (hereinafter "Code"). At all
10 times herein mentioned, respondent **WILLIAM** was licensed as a real
11 estate salesperson in the employ of respondent **LAI**.

12 IV

13 Whenever reference is made in an allegation in this
14 Accusation to an act or omission of "Respondents", such allegation
15 shall be deemed to mean the act or omission of each of the
16 Respondents named in the caption hereof, acting individually,
17 jointly, and severally.

18 V

19 Beginning on or before August 1, 1991 and continuing
20 through on or about August 31, 1992, Respondents engaged in the
21 capacity of, advertised, or assumed to act as a real estate broker
22 in the State of California within the meaning of Section 10131(d)
23 of the Code, including the operation of a mortgage loan brokerage
24 business with the public wherein you arranged, negotiated,
25 processed, and consummated loans secured by liens on real property
26 on behalf of another or others, all for or in expectation of a
27 compensation.

VI

In connection with the mortgage loan brokerage activities described in Paragraph V above, Respondents received and disbursed trust funds.

VII

During the course of the mortgage loan brokerage activities described in Paragraph V above, respondent LAI employed respondent WILLIAM, pro forma, as a real estate salesperson. In fact, respondent LAI permitted respondent WILLIAM to operate his own mortgage loan brokerage business in or near Sacramento, California, under respondent LAI's real estate broker license. Respondent LAI failed to exercise reasonable supervision over respondent WILLIAM and permitted respondent WILLIAM to operate the mortgage loan brokerage business in Sacramento, California as if respondent WILLIAM were a licensed real estate broker. Respondent LAI's failure to reasonably supervise respondent WILLIAM's activities for which a real estate license was required included the acts and omissions set forth below.

VIII

Within the three-year period immediately preceding the filing of this Accusation, respondent LAI in connection with the mortgage loan brokerage activities described in Paragraph V above, failed to deposit all trust funds received into a trust fund account in the name of the broker as trustee at a bank or other financial institution as required by Section 2830 of Title 10, California Code of Regulations (hereinafter "Regulations") and Section 10145 of the Code.

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IX

In connection with the receipt and disbursement of trust funds described in Paragraph VI above, respondent LAI failed to maintain adequate columnar records of all trust funds received and disbursed in the manner required by Section 2831 of the Regulations.

X

In connection with the receipt and disbursement of trust funds described in Paragraph VI above, respondent LAI failed to maintain separate beneficiary records in the manner required by Section 2831.1 of the Regulations.

XI

In connection with the receipt and disbursement of trust funds described in Paragraph VI above, respondent LAI failed to reconcile or maintain a reconciliation of the separate beneficiary records and the record of trust funds received and paid out in the manner required by Section 2831.2 of the Regulations.

XII

Within the three-year period immediately preceding the filing of this Accusation and continuing through on or after March 13, 1993, respondent LAI permitted respondent WILLIAM to operate said mortgage loan brokerage business under the fictitious business names of AAA World Trade & Finance and WTF The Home Loan Professionals without respondent LAI obtaining a license bearing said fictitious business names, as required by Section 2731 of the Regulations.

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XIII

Within the three-year period immediately preceding the filing of this Accusation and continuing through on or about August 31, 1992, respondent LAI failed to review, initial and date within five (5) working days all instruments having a material effect upon a party's rights or obligations prepared by respondent LAI's employees, associates, or real estate salespersons, as required by Section 2725 of the Regulations.

XIV

Within the three-year period immediately preceding the filing of this Accusation, respondent LAI failed to have a written agreement with respondent WILLIAM, Tak Lam and Phong (Mike) Nguyen, real estate salespersons employed by respondent LAI, as required by Section 2726 of the Regulations.

XV

Within the three-year period immediately preceding the filing of this Accusation, in connection with taking real estate secured loan applications from potential borrowers, respondent LAI did not give or cause to be given to the loan applicants, the disclosure statements required by Section 10240 of the Code in the form required by Section 10241 of the Code and Section 2840 of the Regulations.

XVI

The acts and/or omissions of respondent LAI set forth above, constitute a failure to exercise reasonable supervision over the activities of a salesperson and are cause under Section

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1 10177(h) of the Code for suspension or revocation of all licenses
2 and/or license rights of respondent LAI under the Real Estate Law.

3 XVII

4 The acts and/or omissions of respondent LAI described
5 above, are grounds for the suspension or revocation of all
6 licenses and/or license rights of respondent LAI under the
7 following sections of the Code and Regulations:

8 (1) As to Paragraph VIII under Section 10177(d) of the
9 Code in conjunction with Section 10145 of the Code and Section
10 2830 of the Regulations;

11 (2) As to Paragraph IX under Section 10177(d) of the
12 Code in conjunction with Section 2831 of the Regulations;

13 (3) As to Paragraph X under Section 10177(d) of the
14 Code in conjunction with Section 2831.1 of the Regulations;

15 (4) As to Paragraph XI under Section 10177(d) of the
16 Code in conjunction with Section 2831.2 of the Regulations;

17 (5) As to Paragraph XII under Section 10177(d) of the
18 Code in conjunction with Section 2731 of the Regulations;

19 (6) As to Paragraph XIII under Section 10177(d) of the
20 Code in conjunction with Section 2725 of the Regulations;

21 (7) As to Paragraph XIV under Section 10177(d) of the
22 Code in conjunction with Section 2726 of the Regulations; and

23 (8) As to Paragraph XV under Section 10177(d) of the
24 Code in conjunction with Sections 10240 and 10241 of the Code and
25 Section 2840 of the Regulations.

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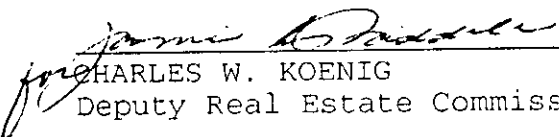
XXI

Within the three-year period immediately preceding the filing of this Accusation, in connection with the mortgage loan brokerage activities described in Paragraphs V and VII above, respondent WILLIAM accepted compensation for acts for which a real estate license is required from persons other than the broker under whom respondent WILLIAM was employed in violation of Section 10137 of the Code.

XXII

The acts and/or omissions of respondent WILLIAM described in this Second Cause of Accusation are grounds for the suspension or revocation of all licenses and/or license rights of respondent WILLIAM under Section 10177(d) of the Code in conjunction with Sections 10145(c) and 10130 of the Code and Section 10137 of the Code.

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 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 provisions of law.


CHARLES W. KOENIG

Deputy Real Estate Commissioner

Dated at Sacramento, California,

this 28th day of July, 1993.