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MARTHA J. ROSETT, Counsel
State Bar # 142072
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, CA 90012

(213) 576-6982

FILED
APR 12 1999
DEPARTMENT OF REAL ESTATE

By *Handwritten signature*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H- 27754 LA
)	OAH #L-1998080243
TIANLAI HU, aka "Bill Hu," doing business)	
as Pioneer Financial Company; and dba)	
Manna Realty and Investments,)	
)	
Respondents.)	

ORDER DENYING RECONSIDERATION

On January 26, 1999, a Decision was rendered herein by the Real Estate Commissioner which revoked the real estate broker license and license rights of Respondent TIANLAI HU. Said Decision was to become effective on February 23, 1999, and was stayed by two separate Orders, first to March 25, 1999 and then to April 4, 1999.

On February 10, 1999, Respondent petitioned for reconsideration of said Decision, and submitted arguments on March 23, 1999. Complainant submitted arguments on March 31, 1999. I have considered the petition of Respondent and have concluded that

1 good cause has not been presented for reconsideration of the
2 Decision of January 26, 1999.

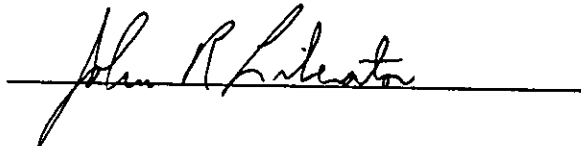
3 After considering the argument of Respondent I see no
4 reason presented for the disciplinary action therein imposed
5 against the real estate broker license of TIANLAI HU, to be
6 reduced or modified.

7 IT IS THEREFORE ORDERED that Respondents' Petition
8 for Reconsideration is hereby denied.

9 This Order is effective immediately.

10 DATED: April 5, 1999.

11
12 JOHN R. LIBERATOR,
Acting Real Estate Commissioner

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*Sacto
Rus*

FILED
MAR 25 1999
DEPARTMENT OF REAL ESTATE

By *K. Wiedersheim*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H- 27754 LA
)	L- 1998080243
TIANLAI HU, aka "Bill Hu," doing)	
business as Pioneer Financial Company;)	
and dba Manna Realty and Investments,)	
)	
Respondent.)	

ORDER STAYING EFFECTIVE DATE

On January 26, 1999, a Decision was rendered in the above-entitled matter to become effective February 23, 1999. On February 19, 1999, the effective date of the Decision was stayed for thirty (30) days, becoming effective March 25, 1999.

IT IS HEREBY ORDERED that the effective date of the Decision of January 26, 1999 is stayed for an additional period of ten (10) days.

The Decision of January 26, 1999 shall become effective at 12 o'clock noon on April 4, 1999.

IT IS SO ORDERED *March 25, 1999*.

JOHN R. LIBERATOR,
Acting Real Estate Commissioner

Randy Brank
By *Jan McChely*

Sacto
Filed

FILED
FEB 19 1999
DEPARTMENT OF REAL ESTATE

By Paula B. Stone

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H- 27754 LA
TIANLAI HU, aka "Bill Hu," doing)	L- 1998080243
business as Pioneer Financial Company;)	
and dba Manna Realty and Investments,)	
)	
Respondent.)	

ORDER STAYING EFFECTIVE DATE

On January 26, 1999, a Decision was rendered in the above-entitled matter to become effective February 23, 1999.

IT IS HEREBY ORDERED that the effective date of the Decision of January 26, 1999 is stayed for a period of thirty (30) days.

The Decision of January 26, 1999 shall become effective at 12 o'clock noon on March 25, 1999.

IT IS SO ORDERED February 19, 1999.

JOHN R. LIBERATOR,
Acting Real Estate Commissioner

Randy Brande by Jim McLaugh

FILED
FEB - 2 1999
DEPARTMENT OF REAL ESTATE

By *K. W. Wetherhall*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)

No. H-27754 LA

L-1998080243

TIANLAI HU,

Respondent (s).)

DECISION

The Proposed Decision dated January 11, 1999, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on February 23, 1999.

IT IS SO ORDERED January 26, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	Agency Case No. H-27754 LA
)	
TIANLAI HU,)	OAH Case No. L - 1998080243
)	
Respondent.)	
<hr/>		

PROPOSED DECISION

This matter came on regularly for hearing before Carolyn Dee Magnuson, Administrative Law Judge of the Office of Administrative Hearing on December 11, 1998 in Los Angeles, California.

The complainant was represented by Martha J. Rosett, Staff Counsel.

Tianlai Hu, the respondent, appeared personally and was represented by Frank Buda, attorney at law.

Oral and documentary evidence was received, and the matter was submitted for decision.

The Administrative Law Judge makes the following findings of fact:

1. Thomas McCrady, the complainant, made the Accusation in his official capacity as Deputy Real Estate Commissioner of the Department of Real Estate ("Department"), State of California.
2. Tianlai Hu ("respondent") is presently licensed and/or has license rights under the Real Estate Law as a real estate broker. The license is due to expire July 29, 2002. Respondent uses the dba's Pioneer Financial Company ("Pioneer") for his mortgage loan business and Manna Realty & Investments ("Manna") for his escrow business. Respondent's business activities require him to be licensed by the Department.
3. In July 1997, the Department performed a follow up audit of those books and records associated with the mortgage loan and escrow aspects of respondent's business for the period July 1, 1996 through May 31, 1997. The auditor found that respondent had failed to comply with the law governing real estate transactions and business in several respects

4. During the audit period, Pioneer closed more than 100 loans with a value greater than \$15,000,000. Manna handled the escrows for about half of those loan transactions.

5. During the audit period, respondent maintained two trust accounts. The Pioneer account was located at the Cathay Bank in Cerritos, California. It was designated as a trust account. Respondent deposited fees received from borrowers to pay for appraisals and credit reports into this account. It has since been closed.

6. The Manna account was located at First Bank and Trust in Irvine, California and was used to receive and disburse payments associated with escrows handled by Manna. That account was not designated as a trust account, although trust funds were deposited into it.

7. Respondent acknowledged that the Manna account was not a trust account but said that he had attempted to have the account name and designation changed. However, the bank declined to make the change. After the auditor spoke to a bank officer, the account was properly named.

8. Respondent had an obligation to keep trust funds in a trust account. The fact that the bank declined to make the necessary change did not excuse respondent's obligation. If nothing else, respondent could have closed the account and opened another in another bank.

9. The auditor found that respondent failed to keep separate records for each beneficiary, showing total escrow trust funds received and disbursed and daily balances. Nor did he maintain control records for the escrow trust funds or the appraisal and credit report fees, showing total funds received and disbursed and the daily balance. Further, respondent failed to reconcile the balances of the separate ledgers with the balances of the control records for either account.

10. Respondent testified at trial that he used a computer program to keep track of the receipts and disbursements associated with the escrow business. It was respondent's understanding that the program generated all of the information that the Department required. Respondent agreed that he had not provided any of this computer generated information to the auditor, but explained that he did not understand the auditor to be asking for computer records.

11. The respondent presented samples of the reports the computer program could generate. These reports were for a period ending May 31, 1997 and included a register and a reconciliation report. Respondent also testified that individual records were being kept for all clients and that the register and beneficiary records are now reconciled monthly.

12. The fact that the computer records exist in December 1998 does not mean that they existed in July 1997. It is not difficult to create such records after the fact. Moreover, respondent's claim that he did not produce the records to the auditor because he did not understand the auditor to be requesting computer records is simply not plausible.

13. It is barely possible that respondent failed to produce the records initially because he misunderstood. However, at the point that the auditor presented his findings to respondent, and it became clear what information was missing, a reasonable person in respondent's position would have mentioned the existence of computer records that provided the information the auditor found was lacking – providing, of course, that such records existed. Moreover, this was not a new problem for respondent. As set forth, *infra*, in an earlier audit, these same record-keeping deficiencies had been raised. Finally, respondent is very well educated. In fact, one can truthfully say that he is, in fact, a rocket scientist. Thus, respondent's claims of confusion or misunderstanding are even less credible.

14. Because respondent did not have individual beneficiary records available, the auditor was unable to determine the trust fund accountability for the Manna bank account, and thus, could not determine if the account was in balance. The Pioneer account was in balance.

15. In the course of the audit the auditor determined that 30 percent of the loan files he reviewed either did not contain the required mortgage loan disclosure statements, were not made on the prescribed form, or were not completely filled out.

16. Respondent testified that he personally reviewed each escrow file and used a checklist to make sure the paperwork was complete and correct. Apparently this is a practice he instituted after the audit, since the files were certainly not complete at the time of the audit.

17. The Department's records showed that respondent was the employing broker for a number of salespersons who were not actively working for respondent. Respondent explained that he did not know some of the people who were supposedly employed by him, although he stated that he might have signed their applications for licensure as real estate salespersons. Respondent did not understand that the Department considered him to be the new licensee's employer until notified otherwise by respondent or the licensee.¹

18. In 1996, the Department conducted an audit of respondent's books and records. As a result of that audit, the Department issued a Corrective Action Letter to respondent. The letter directed respondent to correct a shortage in the Manna account, to stop commingling appraisal and credit report fees in respondent's general fund, to establish trust accounts for both Manna and Pioneer, to deposit trust funds received into

¹ One of the individuals listed as no longer being employed by respondent was actually still employed by him. This error does not, however, change the finding with regard to the balance of the licensees.

the appropriate trust accounts, to maintain separate records for each beneficiary or transaction, to reconcile the columnar record with the separate records each month, to correct the escrow forms to provide a required license disclosure, and to notify the Department when a salesperson left respondent's employ.

19. Of the ten items addressed in the Corrective Action Letter, respondent had failed to correct five of them at the time of the second audit. Moreover, the items, which respondent corrected, were relatively minor compared to those he did not correct. Respondent failed to establish a trust account for Manna; he failed to maintain separate beneficiary or transaction records; he failed to maintain a columnar record of receipts and disbursements; he failed to reconcile the financial records every month, and he failed to notify the Department when a salesperson no longer (or never came to) work for him. Respondent also added several new failures.

20. While it is true that respondent did not act dishonestly and that none of respondent's clients were harmed as a result of his violations, that is not enough. The laws and regulations governing the real estate business are enacted to protect the public. However, a secondary purpose is to allow the Department to efficiently review licensee records and determine if a licensee is complying with the laws. When a licensee fails to maintain the required books and records, a disproportionate amount of the Department's time is consumed in correcting that non-compliance. This endeavor uses resources that are then not available to audit other licensees resulting in additional risk to the public. Moreover, when a broker does not meet the financial record keeping requirements, there is the opportunity for a subordinate to take advantage of the lack of oversight to defraud the broker and/or the public.

21. Respondent testified that he is active in his community, that he is a family man, that his real estate business is the source of income to support his family. Respondent points out that he has had no other discipline against him. Respondent no longer operates Manna. He has associated with another escrow company which handles the loan escrows.

22. Respondent's failure to heed the instructions in the Corrective Action Letter establishes that informal correction has not been successful, and more constraint is required to ensure respondent's compliance with the applicable laws and regulations.

* * * * *

Based on the forgoing Findings of Fact, the Administrative Law Judge makes the following Determination of Issues:

1. Cause exists under the provisions of Business and Professions Code sections 10145 and 10 CCR sections 2831 and 2831.1 to discipline respondent's license for failing to maintain control record and separate records for escrow fund transactions.

2. Cause exists under the provisions of Business and Professions Code

section 10145 and section 2831 to discipline respondent's license for using a bank account not designated as a trust account to deposit and pay-off trust monies.

3. Cause exists under the provisions of 10 CCR section 2831.2 to discipline respondent's license for failing to reconcile the balances of the separate ledgers with the balances of the control records on a monthly basis.

4. Cause exists under the provisions of Business and Professions Code section 10240 and 10 CCR section 2840 to discipline respondent's license for failing to comply with loan disclosure statement requirements.

5. Cause exists under the provisions of Business and Professions Code section 10161.8 to discipline respondent's license for failing to notify the Department of the termination of salespersons.

6. Cause exists under the provisions of Business and Professions Code section 10177(d) and to discipline respondent's license for failing to comply with the laws regulating real estate.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is made:

All licenses and licensing rights of Tianlai Hu under the Real Estate Law are revoked; provided, however, a restricted real estate broker's license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code, if respondent makes application therefor and pays to the Department the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions, imposed under authority of section 10156.6 of that code:

1. The restricted license issued to respondent may be suspended prior to hearing by order of the Real Estate Commissioner ("Commissioner") in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the commissioner that respondent has violated provision of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions

of a restricted license until three years have elapsed from the effective date of this Decision.

4. Within nine months from the effective date of this Decision, respondent shall present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

5. Respondent shall report in writing to the Department, as the Commissioner shall direct, such information concerning respondent's activities, for which a real estate license is required, as the Commissioner shall deem to be appropriate to protect the public interest. Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

6. Pursuant to section 10148 of the Business and Profession's code, respondent shall pay the Commissioner's reasonable cost for an audit to determine if respondent has corrected the trust fund violations found herein. In calculating the amount of the Commissioner's reasonable costs, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such costs within 45 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with section 11500 et seq. of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

DATED: *January 11, 1999*



CAROLYN D. MAGNUSON
Administrative Law Judge
Office of Administrative Hearing

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MARTHA J. ROSETT, Counsel
State Bar # 142072
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
NOV 16 1998
DEPARTMENT OF REAL ESTATE

By K. H. H. H. H.

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H- 27754 LA
)
TIANLAI HU, aka "Bill Hu,")
doing business as Pioneer Financial) FIRST AMENDED
Company; and dba Manna Realty and) ACCUSATION
Investments,)
)
Respondent.)
_____)

The Accusation filed July 15, 1998 is hereby amended to read as follows: The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against TIANLAI HU, aka "Bill Hu," dba Pioneer Financial Company, and dba Manna Realty & Investments, is informed and alleges as follows:

I

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

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II

Respondent TIANLAI HU, doing business as Pioneer Financial Company, and dba Manna Realty & Investments, (hereinafter "Respondent,") 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 broker.

III

At all times material herein, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Code Sections 10131(a) and/or 10131(d), for another or others, for or in expectation of compensation. Said activity included the operation and conduct of a mortgage loan brokerage business with the public wherein he solicited borrowers or lenders for, or negotiated or serviced loans, secured by a lien on real property or a business opportunity. Activity also included the servicing of escrows.

PRIOR AUDIT

IV

In May of 1996, the Department performed a routine audit of Respondent's books and records, covering a period from July 1, 1995 to March 31, 1996, to determine whether trust funds were handled and accounted for in accordance with the Real Estate Law. During the course of that audit, # LA 950513, several violations were discovered, including:

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- a) Trust Fund Handling for Multiple Beneficiaries:
there was a shortage of \$785.98 in the Manna Realty Escrow Division account, in violation of Section 10145 and Regulation 2832.1;
- b) Commingling of Funds: Credit report and appraisal fees collected up front were mixed with broker's funds in the general account, in violation of Section 10176(e);
- c) Trust Fund Account: There was no trust account maintained for credit report and appraisal fees collected up front under Pioneer Financial Company; and the bank account used for escrow purposes (Manna Realty Escrow Division) was not in Tianlai Hu's name as trustee, in violation of Regulation 2830;
- d) Trust Fund Records to be Maintained: Columnar records of trust funds received and disbursed were not maintained for Manna Realty Escrow Division and Pioneer Financial Company. Funds received were not placed in broker's trust account for three of the sales transactions examined under Manna Realty and Investments;
- e) Trust Account Reconciliation: A monthly reconciliation of the columnar record to the separate records was not maintained for Pioneer Financial Company and Manna Realty Escrow Division;
- f) License Disclosure Required of Person Preparing Written Escrow Instructions: Escrow instructions

1 prepared by broker did not contain a statement in 10-
2 point type or larger, which included the license name
3 and the name of the department issuing the license, in
4 violation of Financial Code 17403.4;

5 g) Notice of Change of Broker: The Department was not
6 notified of the termination of employment of ten (10)
7 licensees.

8 A letter setting forth these audit findings and
9 instructing Respondent to take corrective action was sent to
10 Respondent on or about May 30, 1996.

11 V

12 On or about July 31, 1997, the Department completed a
13 follow-up examination of Respondent's books and records,
14 pertaining to the real estate activities described in Paragraphs
15 III and IV above, covering a period from approximately June 30,
16 1996 through May 31, 1997, which examination revealed violations
17 of the Code and of Title 10, Chapter 6, California Code of
18 Regulations ("Regulations"), as set forth below.

19 VI

20 In the course of activities described in Paragraph IV
21 above, and during the examination period described in Paragraph V,
22 Respondent acted in violation of the Code and the Regulations in
23 that:

24 (a) Respondent failed to maintain control records and
25 separate records for escrow fund transactions, in violation of
26 Code Section 10145 and Regulations 2831 and 2831.1;

27 (b) Respondent failed to designate the bank account



1 used to deposit and pay off escrow trust funds as a trust account
2 in the name of the broker as trustee, in violation of Code Section
3 10145 and Regulation 2831;

4 (c) Respondent did not maintain control records for
5 both the appraisal and credit report fees and the escrow trust
6 funds showing total funds received, disbursed and daily balances;

7 (d) Respondent did not maintain separate records for
8 each beneficiary showing total escrow funds received, disbursed
9 and daily individual balances, in violation of Regulation 2831.1;

10 (e) Respondent did not reconcile the balances of the
11 separate ledgers with the balances of the control records for both
12 appraisal and credit reports fees and the escrow trust funds at
13 least once a month, in violation of Regulation 2831.2;

14 (f) In the following transactions, the mortgage loan
15 disclosure statements provided to borrowers were either not the
16 prescribed forms, not signed and dated by broker, not completed,
17 or otherwise not provided to the borrowers, in violation of Code
18 Section 10240 and Regulation 2840:

19	<u>Borrower</u>	<u>Loan Number</u>	<u>Date Closed</u>	<u>Violation(s)</u>
20	Raymond Ng	2362150233	3/12/97	Not completed
21	Jai Jen Lin	144900	11/11/96	Not completed
22	S.Berrios	2137164	10/18/96	Not completed
23	Donna Smith	180781	9/21/96	Not completed
24	Kevin Huffer	1066510	5/12/97	Not provided
25	Lorena Nunez	9202154	5/29/96	Not provided
26	G. Chavez	921277A	8/2/96	Not provided
27	L. Herriott	042419C	6/17/97	Wrong form



1 S. Valencia 118193 2/27/97 Wrong form

2
3 (g) Respondent did not notify the Department of the
4 termination of the following salespersons, in violation of Code
5 Section 10161.8:

6 <u>Name</u>	<u>License No.</u>	<u>Date Terminated</u>
7 A. Abarquez	00975918	3/3/97
8 Jung-Cheng Chein	01171461	3/3/97
9 Chung Ann Chou	01151249	3/7/97
10 Chu-Ching Liang	00809329	3/7/97
11 Zahra Meisami	00908821	4/3/97
12 Bhupendra Shah	00873673	4/10/97
13 Brian Shu	01221948	3/3/97
14 An-Brown Wu	01052174	4/10/97

15 Each of the foregoing violations constitute cause for
16 the suspension or revocation of Respondent's real estate licenses
17 and license rights of under the provisions of Code Section
18 10177(d).

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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 TIANLAI HU, 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 applicable provisions of law.

Dated at Los Angeles, California
this 16th day of November, 1998.



Deputy Real Estate Commissioner

cc: Tianlai Hu
Sacto.
SE
Audits

Handwritten initials/signature

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
OCT 28 1998
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

TIANLAI HU,

} _____

Respondent

Case No. H-27754 LA

OAH No. L-1998080243

Handwritten signature

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 _____
Office of Administrative Hearings, 107 South Broadway, Second Floor
Los Angeles, CA 90012

on December 11, 1998, at the hour of 9:00 a.m.,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: October 28, 1998

By *Handwritten signature* Counsel

cc: Tianlai Hu
Frank M. Buda, Esq.
Sacto OAH SE

Sacto OAH

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 26 1998
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

TIANLAI HU,

Respondent

}

By *K. Hu*

Case No. H-27754 LA

OAH No. L-1998080243

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 _____
Office of Administrative Hearings, 107 South Broadway, Second Floor
Los Angeles, CA 90012

on October 6, 1998, at the hour of 1:30 p.m.,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: August 26, 1998

By *Martha J. [Signature]* Counsel

cc: Tianlai Hu
Frank Buda, Esq.
Sacto OAH

Handwritten signature/initials

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MARTHA J. ROSETT, Counsel
State Bar # 142072
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
JUL 15 1998
DEPARTMENT OF REAL ESTATE

By *K. Kuderhold*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H- 27754 LA
)
TIANLAI HU, aka "Bill Hu,")
doing business as Pioneer Financial) ACCUSATION
Company; and dba Manna Realty and)
Investments,)
)
Respondent.)

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against TIANLAI HU, aka "Bill Hu," dba Pioneer Financial Company, and dba Manna Realty & Investments, is informed and alleges as follows:

I

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

II

Respondent TIANLAI HU, doing business as Pioneer Financial Company, and dba Manna Realty & Investments,

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

5 III

6 At all times material herein, Respondent engaged in the
7 business of, acted in the capacity of, advertised or assumed to
8 act as a real estate broker in the State of California, within the
9 meaning of Code Sections 10131(a) and/or 10131(d), for another or
10 others, for or in expectation of compensation. Said activity
11 included the operation and conduct of a mortgage loan brokerage
12 business with the public wherein he solicited borrowers or lenders
13 for, or negotiated or serviced loans, secured by a lien on real
14 property or a business opportunity. Activity also included the
15 servicing of escrows.

16 PRIOR AUDIT

17 IV

18 In May of 1996, the Department performed a routine audit
19 of Respondent's books and records, covering a period from July 1,
20 1995 to March 31, 1996, to determine whether trust funds were
21 handled and accounted for in accordance with the Real Estate Law.
22 During the course of that audit, #LA 950513, several violations
23 were discovered, including:

24 a) Trust Fund Handling for Multiple Beneficiaries:

25 there was a shortage in one of the escrow accounts, in
26 violation of Section 10145 and Regulation 2832.1;

27 b) Commingling of Funds: Credit report and appraisal



1 fees collected up front were mixed with broker's funds
2 in the general account, in violation of Section
3 10176(e);

4 c) Trust Fund Account: There was no trust account
5 maintained for credit report and appraisal fees
6 collected up front under Pioneer Financial Company; and
7 the bank account used for escrow purposes (Manna Realty
8 Escrow Division) was not in Tianlai Hu's name as
9 trustee, in violation of Regulation 2830;

10 d) Trust Fund Records to be Maintained: Columnar
11 records of trust funds received and disbursed were not
12 maintained for Manna Realty Escrow Division and Pioneer
13 Financial Company. Funds received were not placed in
14 broker's trust account for three of the sales
15 transactions examined under Manna Realty and
16 Investments;

17 e) Trust Account Reconciliation: A monthly
18 reconciliation of the columnar record to the separate
19 records was not maintained for Pioneer Financial Company
20 and Manna Realty Escrow Division;

21 f) License Disclosure Required of Person Preparing
22 Written Escrow Instructions: Escrow instructions
23 prepared by broker did not contain a statement in 10-
24 point type or larger, which included the license name
25 and the name of the department issuing the license, in
26 violation of Financial Code 17403.4;

27 g) Notice of Change of Broker: The Department was not



1 notified of the termination of employment of ten (10)
2 licensees.

3 A letter setting forth these audit findings and
4 instructing Respondent to take corrective action was sent to
5 Respondent on or about May 30, 1996.

6 V

7 On or about July 31, 1997, the Department completed a
8 follow-up examination of Respondent's books and records,
9 pertaining to the real estate activities described in Paragraphs
10 III and IV above, covering a period from approximately June 30,
11 1996 through May 31, 1997, which examination revealed violations
12 of the Code and of Title 10, Chapter 6, California Code of
13 Regulations ("Regulations"), as set forth below.

14 VI

15 In the course of activities described in Paragraph IV
16 above, and during the examination period described in Paragraph V,
17 Respondent acted in violation of the Code and the Regulations in
18 that:

19 (a) Respondent failed to maintain control records and
20 separate records for escrow fund transactions, in violation of
21 Code Section 10145 and Regulations 2831 and 2831.1;

22 (b) Respondent failed to designate the bank account
23 used to deposit and pay off escrow trust funds as a trust account
24 in the name of the broker as trustee, in violation of Code Section
25 10145 and Regulation 2831;

26 (c) Respondent did not maintain control records for
27 both the appraisal and credit report fees and the escrow trust



1 funds showing total funds received, disbursed and daily balances;

2 (d) Respondent did not maintain separate records for
3 each beneficiary showing total escrow funds received, disbursed
4 and daily individual balances, in violation of Regulation 2831.1;

5 (e) Respondent did not reconcile the balances of the
6 separate ledgers with the balances of the control records for both
7 appraisal and credit reports fees and the escrow trust funds at
8 least once a month, In violation of Regulation 2831.2;

9 (f) The mortgage loan disclosure statements provided to
10 borrowers were either not the prescribed forms, not signed and
11 dated by broker or not all parts were completed, in violation of
12 Code Section 10240 and Regulation 2840; and

13 (g) Respondent did not notify the Department of the
14 termination of several salespersons, in violation of Code Section
15 10161.8.

16 Each of the foregoing violations constitute cause for
17 the suspension or revocation of Respondent's real estate licenses
18 and license rights of under the provisions of Code Section
19 10177(d).

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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 TIANLAI HU, 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 applicable provisions of law.

Dated at Los Angeles, California
this 15th day of July, 1998.

THOMAS MC CRADY

Deputy Real Estate Commissioner

cc: Tianlai Hu
Sacto.
SE
Audits