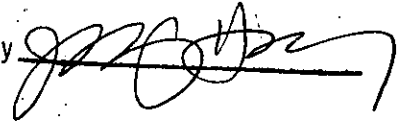


1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105
4
5 Telephone: (213) 576-6982
6
7

FILED
MAR 30 2004
DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-29532 LA
12 TIANLAI HU,) L-2002060617
13 Respondent.) STIPULATION AND AGREEMENT
14

15 It is hereby stipulated by and between TIANLAI HU
16 (sometimes referred to herein as "Respondent"), his attorney of
17 record, Frank M. Buda, and the Complainant, acting by and through
18 Mary E. Work, Counsel for the Department of Real Estate, as
19 follows for the purpose of settling and disposing of the
20 Accusation filed on June 6, 2002, in this matter:

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and Respondent
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedure Act ("APA"), shall instead and in place thereof be
26 submitted solely on the basis of the provisions of this
27 Stipulation and Agreement ("Stipulation").

1 2. Respondent has received, read and understands the
2 Statement to Respondent, the Discovery Provisions of the APA and
3 the Accusation filed by the Department of Real Estate in this
4 proceeding.

5 3. On June 13, 2002, Respondent filed a Notice of
6 Defense pursuant to Section 11506 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense,
11 Respondent will thereby waive his right to require the
12 Commissioner to prove the allegations in the Accusation at a
13 contested hearing held in accordance with the provisions of the
14 APA and that Respondent will waive other rights afforded to him
15 in connection with the hearing such as the right to present
16 evidence in defense of the allegations in the Accusation and the
17 right to cross-examine witnesses.

18 4. This Stipulation and Agreement ("Stipulation") is
19 based on the factual allegations contained in the Accusation
20 filed in this proceeding. In the interest of expedience and
21 economy, Respondent chooses not to contest these factual
22 allegations, but to remain silent and understands that, as a
23 result thereof, these factual statements, without being admitted
24 or denied, will serve as a prima facie basis for the disciplinary
25 action stipulated to herein. The Real Estate Commissioner shall
26 not be required to provide further evidence to prove such
27 allegations.

1
2 5. This Stipulation and Respondent's decision not to
3 contest the Accusation are made solely for the purpose of
4 reaching an agree disposition of this proceeding and are
5 expressly limited to this proceeding and any other proceeding or
6 case in which the Department of Real Estate of another licensing
7 agency of this state, another state or the federal government is
8 involved, and otherwise shall not be admissible in any other
9 criminal or civil proceeding.

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

20
21 DETERMINATION OF ISSUES

22 By reason of the foregoing stipulations, admissions and
23 waivers and solely for the purpose of settlement of the pending
24 Accusation without a hearing, it is stipulated and agreed that
25 the following Determination of Issues shall be made: The conduct,
26 acts and/or omissions of Respondent, as set forth in Paragraphs
27

1 IV, V, VI and VII of the Accusation are grounds for suspension or
2 revocation of the restricted real estate broker license of
3 Respondent under the provisions of Sections 10177(f), 10177(j)
4 and 10177(k) of the Business and Professions Code.

5 ORDER

6 WHEREFORE, THE FOLLOWING ORDER is hereby made:

7 The restricted real estate broker license of Respondent
8 TIANLAI HU is revoked; provided, however, a restricted real
9 estate salesperson license shall be issued to Respondent pursuant
10 to Section 10156.5 of Business and Professions Code if
11 Respondent: (a) Within 90 days from the effective date of this
12 Decision makes application therefor and pays to the Department of
13 Real Estate the appropriate fee for said restricted license and
14 (b) Prior to application for said restricted real estate
15 salesperson license, provides proof satisfactory to the Real
16 Estate Commissioner of his dismissal of his appeal to the Second
17 District Court of Appeal from the Los Angeles County Superior
18 Court's denial of his Petition for Writ of Mandamus in Case No.
19 BS069923, captioned as Tianlai Hu (aka Bill Hu) v. State of
20 California Commissioner of Corporations.

21 The restricted license issued to Respondent shall be
22 subject to all of the provisions of Section 10156.7 of the
23 Business and Professions Code and to the following limitations,
24 conditions and restrictions imposed under authority of Section
25 10156.6 of that Code:

26 1. The restricted license issued to Respondent may be
27 suspended prior to hearing by Order of the Real Estate

1 Commissioner in the event of Respondent's conviction or plea of
2 nolo contendere to a crime which is substantially related to
3 Respondent's fitness or capacity as a real estate licensee.

4 2. The restricted license issued to Respondent may be
5 suspended prior to hearing by Order of the Real Estate
6 Commissioner on evidence satisfactory to the Commissioner that
7 Respondent has violated provisions of the California Real Estate
8 Law, the Subdivided Lands Law, Regulations of the Real Estate
9 Commissioner or conditions attaching to the restricted license.

10 3. Respondent shall not be eligible to apply for
11 issuance of an unrestricted real estate license nor for the
12 removal of any of the conditions, limitations or restrictions
13 of a restricted license until two (2) years have elapsed from the
14 effective date of issuance of this Decision.

15 4. Respondent shall submit with any application for
16 license under an employing broker, or any application for
17 transfer to a new employing broker, a statement signed by the
18 prospective employing broker on a form approved by the Department
19 of Real Estate which shall certify:

20 (a) That the employing broker has read the
21 Decision of the Commissioner which granted the right to a
22 restricted license; and

23 (b) That employing broker will exercise close
24 supervision over the performance by the restricted licensee
25 relating to activities for which a real estate license is
26 required.

27

1 witnesses against me and to present evidence in defense and
2 mitigation of the charges.

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

13 DATED: 3-4-04 Tianlai Hu
14 TIANLAI HU, Respondent

15 Approved as to form and content.

16 DATED: 3-4-04 Frank M. Buda
17 FRANK M. BUDA, Attorney for
18 Respondent

18 * * *

19 The foregoing Stipulation and Agreement is hereby
20 adopted as my Decision in this matter and shall become effective
21 at 12 o'clock noon on April 19, 2004.

22 IT IS SO ORDERED March 25, 2004.

23
24 JOHN R. LIBERATOR,
Acting Real Estate Commissioner

25
26 John R. Liberator
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

III

PRIOR DISCIPLINE

On or about July 15, 1998, in Case No. H-27754 LA, the Department of Real Estate filed an Accusation against Respondent. Thereafter, on February 23, 1999, the Decision of the Acting Real Estate Commissioner became effective. Said Decision revoked the real estate broker license of Respondent and granted him the right to a restricted broker license on certain terms and conditions. Said restricted license remains in effect.

IV

On or about October 13, 2000, Janus, a California Corporation, filed with the Commissioner of the Department of Corporations, its application for an escrow agent's license pursuant to Section 17209 of the California Escrow Law. The application identified Respondent TIANLAI HU as the sole shareholder, officer, director and proposed manager of Janus.

V

Pursuant to California Financial Code Section 17209(g), Respondent TIANLAI HU, on behalf of Janus, submitted a Statement of Identity and Questionnaire ("SIQ") signed under penalty of perjury. Question 4 of said SIQ asked "Have you ever been refused a license to engage in any business in this state or any other state, or has any such license ever been suspended or revoked?" Respondent answered "No." Said answer was false since Respondent's real estate broker license had been revoked as described above in Paragraph III.

VI

1 Thereafter, in response to Respondent's application,
2 the Department of Corporations filed a Statement of Issues.
3 The Statement of Issues alleged grounds to deny the application
4 based on Respondent's false statement of material fact made in
5 the application for license. On or about May 2, 2001, the
6 Department of Corporations issued an Order Barring From Any
7 Management or Control of Any Escrow Agent against Respondent.
8

VII

9 Respondent's failure to reveal the fact that his real
10 estate license had been disciplined by revocation when making
11 application to the Department of Corporations for license to
12 operate an escrow business is cause, under Section 10177(f),
13 10177(j) and or 10177(k) of the Business and Professions Code,
14 for suspension or revocation of all licenses and license rights
15 of Respondent under the Real Estate law.
16

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of TIANLAI HU
5 under the Real Estate Law and for such other and further relief
6 as may be proper under applicable provisions of law.

7 Dated at Los Angeles, California

8 this 6th day of June, 2002.

9
10 
11 Deputy Real Estate Commissioner

12
13
14
15
16
17
18
19
20
21
22
23
24 cc: Tianlai Hu
25 Maria Suarez
26 ✓ SACTO
27 OD