

JAN 18 2008

DEPARTMENT OF REAL ESTATE

B.

\* \* \*

In the Matter of the Accusation of )            No. H-8186 SF  
   )  
WILLIAM ISYDOR SAMUELS,                 )  
   )  
Respondent.                                 )

# ORDER GRANTING REINSTATEMENT OF LICENSE

On February 21, 2003, in Case No. H-8186 SF, a Decision was rendered which revoked the real estate broker license of Respondent effective March 14, 2003, but granted Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on March 14, 2003, subject to terms, conditions and restrictions, including but not limited to the requirement that Respondent take and pass the Department's Professional Responsibility Examination within six months after March 14, 2003. On November 10, 2003, an order was issued herein indefinitely suspending Respondent's restricted real estate broker license pursuant to the provisions of Section 10177(k) of the California Business and Professions

1 Code pending successful completion of the Professional  
2 Responsibility Examination, and Respondent's restricted real  
3 estate broker license has remained so suspended since that time.

4 On October 16, 2006, Respondent petitioned for  
5 reinstatement of said real estate broker license, and the  
6 Attorney General of the State of California has been given notice  
7 of the filing of said petition.

8 I have considered the petition of Respondent and the  
9 evidence and arguments in support thereof. Respondent has  
10 demonstrated to my satisfaction that Respondent meets the  
11 requirements of law for the issuance to Respondent of an  
12 unrestricted real estate broker license and that it would not be  
13 against the public interest to issue said license to Respondent.

14 NOW, THEREFORE, IT IS ORDERED that Respondent's  
15 petition for reinstatement is granted and that a real estate  
16 broker license be issued to Respondent if Respondent satisfies  
17 the following conditions within nine (9) months from the date of  
18 this Order:

19 1. Submittal of a completed application and payment of  
20 the fee for a real estate broker license.

21 2. Submittal of evidence of having, since the most  
22 recent issuance of an original or renewal real estate license,  
23 taken and successfully completed the continuing education  
24 requirements of Article 2.5 of Chapter 3 of the Real Estate Law  
25 for renewal of a real estate license.

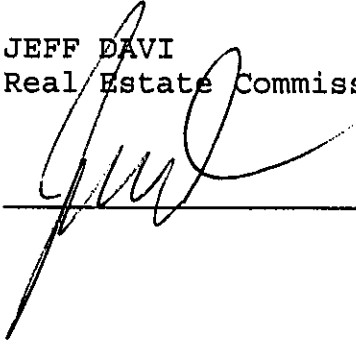
26 3. Submittal of evidence of having, since March 14,  
27 2003, taken and passed the Professional Responsibility

1 Examination administered by the Department, including the payment  
2 of the appropriate examination fee.

3 This Order shall be effective immediately.

4 DATED: 1-8-28

5 JEFF DAVI  
6 Real Estate Commissioner

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1 Department of Real Estate  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4  
5 Telephone: (916) 227-0789  
6  
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FILED  
NOV 18 2003

DEPARTMENT OF REAL ESTATE

By Laurie L. Zinn

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H-8186 SF  
12 WILLIAM ISYDOR SAMUELS, )  
13 Respondent. )  
14

15 ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

16 TO: Respondent WILLIAM ISYDOR SAMUELS

17 On March 14, 2003, a restricted real estate broker  
18 license was issued by the Department of Real Estate to  
19 Respondent WILLIAM ISYDOR SAMUELS (hereinafter "Respondent"), on  
20 the terms, conditions and restrictions set forth in the Real  
21 Estate Commissioner's Order of February 21, 2003 in Case No.  
22 H-8186 SF. The Order became effective March 14, 2003. The Order  
23 of February 21, 2003 granted Respondent the right to the  
24 issuance of a restricted real estate broker license subject to  
25 the provisions of Section 10156.7 of the Business and  
26 Professions Code and to enumerated additional terms, conditions

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1 and restrictions imposed under authority of Section 10156.6 of  
2 said Code.

3           Among those terms, conditions and restrictions,  
4 Respondent was required to take and pass the Professional  
5 Responsibility Examination (hereinafter "the condition") within  
6 six months after March 14, 2003, the date the restricted license  
7 was issued. The Commissioner has determined that as of  
8 October 14, 2003, Respondent has failed to satisfy this  
9 condition, and as such, Respondent is in violation of Section  
10 10177(k) of the Business and Professions Code.

11           NOW, THEREFORE, IT IS ORDERED under authority of  
12 Section 10156.7 of the Business and Professions Code of the  
13 State of California that the restricted real estate broker  
14 license heretofore issued to Respondent, and the exercise of any  
15 privileges thereunder, is hereby suspended until such time as  
16 Respondent provides proof satisfactory to the Department of  
17 compliance with the "condition" referred to above, or pending  
18 final determination made after hearing (see "Hearing Rights" set  
19 forth below). Furthermore, Respondent has no right to renew  
20 Respondent's restricted license if this condition is not  
21 satisfied by the date Respondent's restricted license expires.

22           IT IS FURTHER ORDERED that all license certificates  
23 and identification cards issued by the Department which are in  
24 the possession of Respondent be immediately surrendered by  
25 personal delivery or by mailing in the enclosed, self-addressed  
26 envelope to:

27 ///

1 Department of Real Estate  
2 Attn: Flag Section  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000

5 HEARING RIGHTS: Pursuant to the provisions of Section  
6 10156.7 of the Business and Professions Code, Respondent has the  
7 right to a hearing to contest the Commissioner's determination  
8 that Respondent is in violation of Section 10177(k). If  
9 Respondent desires a hearing, Respondent must submit a written  
10 request. The request may be in any form, as long as it is in  
11 writing and indicates that Respondent wants a hearing. The  
12 Department will not be obligated or required to provide  
13 Respondent with a hearing unless a written request for a  
14 hearing, signed by or on behalf of Respondent, is delivered or  
15 mailed to the Department at the following address:

16 Department of Real Estate  
17 Attn: Legal Section  
18 P. O. Box 187000  
19 Sacramento, CA 95818-7000

20 This Order shall be effective immediately.

21 IT IS SO ORDERED

November 19, 2003.

22 PAULA REDDISH ZINNEMANN  
23 Real Estate Commissioner  
24  
25  
26  
27

1 Department of Real Estate  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4  
5 Telephone: (916) 227-0789  
6  
7

FILED  
FEB 22 2003

DEPARTMENT OF REAL ESTATE

By Laurie L. Z...

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 SAXE REAL ESTATE MANAGEMENT ) No. H-8186 SF  
13 SERVICES, INC. and ) OAH No. N-2002100400  
14 WILLIAM ISYDOR SAMUELS, )  
15 Respondents. ) STIPULATION AND AGREEMENT

16 It is hereby stipulated by and between Respondents  
17 SAXE REAL ESTATE MANAGEMENT SERVICES, INC., a corporation, and  
18 WILLIAM ISYDOR SAMUELS (hereinafter "Respondents"), individually  
19 and by and through Patricia Kennedy Fyfe, Esq., attorney of  
20 record herein for Respondents, and the Complainant, acting by  
21 and through James L. Beaver, Counsel for the Department of Real  
22 Estate (herein "the Department"), as follows for the purpose of  
23 settling and disposing of the Accusation filed on August 28,  
24 2002 in this matter (herein "the Accusation"):

25 1. All issues which were to be contested and all  
26 evidence which was to be presented by Complainant and  
27 Respondents at a formal hearing on the Accusation, which hearing

1 was to be held in accordance with the provisions of the  
2 Administrative Procedure Act (APA), shall instead and in place  
3 thereof be submitted solely on the basis of the provisions of  
4 this Stipulation and Agreement.

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

8 3. On September 9, 2002, Respondents filed Notices  
9 of Defense pursuant to Section 11505 of the Government Code for  
10 the purpose of requesting a hearing on the allegations in the  
11 Accusation. Respondents each hereby freely and voluntarily  
12 withdraw said Notice of Defense. Respondents acknowledge that  
13 Respondents understand that by withdrawing said Notice of  
14 Defense Respondents will thereby waive Respondents' right to  
15 require the Real Estate Commissioner (herein "the Commissioner")  
16 to prove the allegations in the Accusation at a contested  
17 hearing held in accordance with the provisions of the APA and  
18 that Respondents will waive other rights afforded to Respondents  
19 in connection with the hearing such as the right to present  
20 evidence in defense of the allegations in the Accusation and the  
21 right to cross-examine witnesses.

22 4. This Stipulation is based on the factual  
23 allegations contained in the Accusation. In the interests of  
24 expediency and economy, Respondents choose not to contest these  
25 allegations, but to remain silent and understand that, as a  
26 result thereof, these factual allegations, without being  
27 admitted or denied, will serve as a prima facie basis for the



1 disciplinary action stipulated to herein. The Real Estate  
2 Commissioner shall not be required to provide further evidence  
3 to prove said factual allegations.

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

14           6. This Stipulation and Agreement shall not  
15 constitute an estoppel, merger or bar to any further  
16 administrative or civil proceedings by the Department with  
17 respect to any matters which were not specifically alleged to be  
18 causes for accusation in this proceeding.

19           7. Respondents understand that by agreeing to this  
20 Stipulation and Agreement, Respondents jointly and severally  
21 agree to pay, pursuant to Section 10148 of the California  
22 Business and Professions Code, the cost of the audit which  
23 resulted in the determination that Respondents committed the  
24 trust fund violation(s) found in paragraph I, below, of the  
25 Determination of Issues. The amount of said costs is \$2,511.03.

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1           8. Respondents further understand that by agreeing  
2 to this Stipulation and Agreement in Settlement, the findings  
3 set forth below in the Determination Of Issues become final, and  
4 that the Commissioner may charge said Respondents, jointly and  
5 severally, for the costs of any audit conducted pursuant to  
6 Section 10148 of the California Business and Professions Code to  
7 determine if the trust fund violation(s) found in paragraph I,  
8 below, of the Determination of Issues have been corrected. The  
9 maximum costs of said audit shall not exceed \$3,372.46.

10                           DETERMINATION OF ISSUES

11           By reason of the foregoing stipulations, admissions  
12 and waivers and solely for the purpose of settlement of the  
13 pending Accusation without hearing, it is stipulated and agreed  
14 that the following Determination of Issues shall be made:

15                           I

16           The acts and omissions of Respondent SAXE REAL ESTATE  
17 MANAGEMENT SERVICES, INC. (hereinafter "SAXE") as described in  
18 the Accusation are grounds for the suspension or revocation of  
19 the licenses and license rights of Respondent SAXE under the  
20 following provisions of the California Business and Professions  
21 Code (herein "the Code"):

22                   (a) As to Paragraph IX(a) under Section 10145 of the  
23 Code and Section 2832 of the Regulations in conjunction with  
24 Section 10177(d) of the Code;

25                   (b) As to Paragraph IX(b) under Section 2832.1 of the  
26 Regulations in conjunction with Section 10177(d) of the Code;

27    ///

1 (c) As to Paragraph IX(c) under Section 10145 of the  
2 Code and 2834 of the Regulations in conjunction with Section  
3 10177(d) of the Code; and

4 (d) As to Paragraph IX(d) under Section 10148(a) of  
5 the Code in conjunction with Section 10177(d) of the Code.

6 II

7 The acts and omissions of Respondent WILLIAM ISYDOR  
8 SAMUELS (hereinafter "SAMUELS") as described in Paragraph X of  
9 the Accusation are grounds for the suspension or revocation of  
10 the licenses and license rights of Respondent SAMUELS under  
11 Sections 10177(g) and 10177(h) of the Code and Section 10159.2  
12 of the Code in conjunction with Section 10177(d) of the Code.

13 ORDER

14 I

15 All licenses and licensing rights of Respondent SAXE  
16 REAL ESTATE MANAGEMENT SERVICES, INC. under the Real Estate Law  
17 are revoked; provided, however, a restricted corporate real  
18 estate broker license shall be issued to said Respondent  
19 pursuant to Section 10156.5 of the Business and Professions Code  
20 if, within 90 days from the effective date of the Decision  
21 entered pursuant to this Order, the Respondent, prior to and as  
22 a condition of the issuance of said restricted license:

23 (a) makes application for the restricted license and  
24 pays to the Department of Real Estate the appropriate fee  
25 therefor; and

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1 (b) submits proof satisfactory to the Commissioner  
2 that, as of a date within 120 days prior to the effective date  
3 of the decision herein the balance of funds held by Respondent  
4 SAXE in trust equaled the aggregate liability of Respondent SAXE  
5 to all owners of such funds.

6 The restricted license issued to Respondent shall be  
7 subject to all of the provisions of Section 10156.7 of the  
8 Business and Professions Code and to the following limitations,  
9 conditions and restrictions imposed under authority of Section  
10 10156.6 of that Code:

11 1. The restricted license issued to Respondent may  
12 be suspended prior to hearing by Order of the Real Estate  
13 Commissioner in the event of Respondent's conviction or plea of  
14 nolo contendere to a crime which is substantially related to  
15 Respondent's fitness or capacity as a real estate licensee.

16 2. The restricted license issued to Respondent may  
17 be suspended prior to hearing by Order of the Real Estate  
18 Commissioner on evidence satisfactory to the Commissioner that  
19 Respondent has violated provisions of the California Real Estate  
20 Law, the Subdivided Lands Law, Regulations of the Real Estate  
21 Commissioner or conditions attaching to the restricted license.

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

27 ///

1                   4.   Pursuant to Section 10148 of the Business and  
2 Professions Code, Respondent shall, jointly and severally with  
3 Respondent SAMUELS, pay the sum of \$2,511.03 as and for the  
4 Commissioner's cost of the audit which led to this disciplinary  
5 action. Respondent shall pay such cost within 45 days of  
6 receiving an invoice therefor from the Commissioner. The  
7 Commissioner may suspend the restricted license issued to  
8 respondent pending a hearing held in accordance with Section  
9 11500, et seq., of the Government Code, if payment is not timely  
10 made as provided for herein, or as provided for in a subsequent  
11 agreement between the Respondent and the Commissioner. The  
12 suspension shall remain in effect until payment is made in full  
13 or until Respondent enters into an agreement satisfactory to the  
14 Commissioner to provide for payment, or until a decision  
15 providing otherwise is adopted following a hearing held pursuant  
16 to this condition.

17                   5.   Pursuant to Section 10148 of the Business and  
18 Professions Code, Respondent shall, jointly and severally with  
19 Respondent SAMUELS, pay the Commissioner's reasonable cost, not  
20 to exceed \$3,372.46, for an audit to determine if Respondent has  
21 corrected the trust fund violation(s) found in paragraph I of  
22 the Determination of Issues. In calculating the amount of the  
23 Commissioner's reasonable cost, the Commissioner may use the  
24 estimated average hourly salary for all persons performing  
25 audits of real estate brokers, and shall include an allocation  
26 for travel time to and from the auditor's place of work.  
27 Respondent shall pay such cost within 45 days of receiving an

1 invoice therefor from the Commissioner detailing the activities  
2 performed during the audit and the amount of time spent  
3 performing those activities. The Commissioner may suspend the  
4 restricted license issued to respondent pending a hearing held  
5 in accordance with Section 11500, et seq., of the Government  
6 Code, if payment is not timely made as provided for herein, or  
7 as provided for in a subsequent agreement between the Respondent  
8 and the Commissioner. The suspension shall remain in effect  
9 until payment is made in full or until Respondent enters into an  
10 agreement satisfactory to the Commissioner to provide for  
11 payment, or until a decision providing otherwise is adopted  
12 following a hearing held pursuant to this condition.

13 II

14 All licenses and licensing rights of Respondent  
15 WILLIAM ISYDOR SAMUELS under the Real Estate Law are revoked;  
16 provided, however, a restricted real estate broker license shall  
17 be issued to such Respondent pursuant to Section 10156.5 of the  
18 Business and Professions Code if, within 90 days from the  
19 effective date of the Decision entered pursuant to this Order,  
20 the Respondent, prior to and as a condition of the issuance of  
21 said restricted license:

22 (a) makes application for the restricted license and  
23 pays to the Department of Real Estate the appropriate fee  
24 therefor;

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1           (b) submits proof satisfactory to the Commissioner of  
2 having taken and completed at an accredited institution the  
3 continuing education course on trust fund accounting and  
4 handling specified in paragraph (3) of subdivision (a) of  
5 Section 10170.5 of the Business and Professions Code. Said  
6 course must have been completed within 120 days prior to the  
7 issuance of the restricted license. Credit against the  
8 continuing education condition set forth in Paragraph "6" below  
9 will be given for completion of this trust fund accounting and  
10 handling course during the 120 days prior to the issuance of the  
11 restricted license; and

12           (c) submits proof satisfactory to the Commissioner  
13 that, as of a date within 120 days prior to the effective date  
14 of the decision herein the balance of funds held by Respondent  
15 SAXE in trust equaled the aggregate liability of Respondent SAXE  
16 to all owners of such funds.

17           The restricted license issued to such Respondent shall  
18 be subject to all of the provisions of Section 10156.7 of the  
19 Business and Professions Code and to the following limitations,  
20 conditions and restrictions imposed under authority of Section  
21 10156.6 of that Code:

22           1. The restricted license issued to such Respondent  
23 may be suspended prior to hearing by Order of the Real Estate  
24 Commissioner in the event of the Respondent's conviction or plea  
25 of nolo contendere to a crime which is substantially related to  
26 Respondent's fitness or capacity as a real estate licensee.

27    ///

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

8           3.    Respondent shall not be eligible to apply for the  
9 issuance of an unrestricted real estate license or for the  
10 removal of any of the conditions, limitations or restrictions of  
11 a restricted license until two (2) years have elapsed from the  
12 effective date of this Decision.

13           4.    Pursuant to Section 10148 of the Business and  
14 Professions Code, Respondent shall, jointly and severally with  
15 Respondent SAXE, pay the sum of \$2,511.03 as and for the  
16 Commissioner's cost of the audit which led to this disciplinary  
17 action. Respondent shall pay such cost within 45 days of  
18 receiving an invoice therefor from the Commissioner. The  
19 Commissioner may suspend the restricted license issued to  
20 respondent pending a hearing held in accordance with Section  
21 11500, et seq., of the Government Code, if payment is not timely  
22 made as provided for herein, or as provided for in a subsequent  
23 agreement between the Respondent and the Commissioner. The  
24 suspension shall remain in effect until payment is made in full  
25 or until Respondent enters into an agreement satisfactory to the  
26 Commissioner to provide for payment, or until a decision

27    ///



1 providing otherwise is adopted following a hearing held pursuant  
2 to this condition.

3           5.     Pursuant to Section 10148 of the Business and  
4 Professions Code, Respondent shall, jointly and severally with  
5 Respondent SAXE, pay the Commissioner's reasonable cost, not to  
6 exceed \$3,372.46, for an audit to determine if Respondent has  
7 corrected the trust fund violation(s) found in paragraph I of  
8 the Determination of Issues. In calculating the amount of the  
9 Commissioner's reasonable cost, the Commissioner may use the  
10 estimated average hourly salary for all persons performing  
11 audits of real estate brokers, and shall include an allocation  
12 for travel time to and from the auditor's place of work.  
13 Respondent shall pay such cost within 45 days of receiving an  
14 invoice therefor from the Commissioner detailing the activities  
15 performed during the audit and the amount of time spent  
16 performing those activities. The Commissioner may suspend the  
17 restricted license issued to respondent pending a hearing held  
18 in accordance with Section 11500, et seq., of the Government  
19 Code, if payment is not timely made as provided for herein, or  
20 as provided for in a subsequent agreement between the Respondent  
21 and the Commissioner. The suspension shall remain in effect  
22 until payment is made in full or until Respondent enters into an  
23 agreement satisfactory to the Commissioner to provide for  
24 payment, or until a decision providing otherwise is adopted  
25 following a hearing held pursuant to this condition.

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1           6.     Respondent shall, within nine (9) months from the  
2 effective date of the Decision, present evidence satisfactory to  
3 the Commissioner that Respondent has, since the most recent  
4 issuance of an original or renewal real estate license, taken  
5 and successfully completed the continuing education requirements  
6 of Article 2.5 of Chapter 3 of the Real Estate Law for renewal  
7 of a real estate license. If Respondent fails to satisfy this  
8 condition, the Commissioner may order the suspension of the  
9 restricted license until the Respondent presents such evidence.  
10 The Commissioner shall afford Respondent the opportunity for a  
11 hearing pursuant to the Administrative Procedure Act to present  
12 such evidence.

13           7.     Respondent shall, within six (6) months from the  
14 issuance of the restricted license, take and pass the  
15 Professional Responsibility Examination administered by the  
16 Department, including the payment of the appropriate examination  
17 fee. If Respondent fails to satisfy this condition, the  
18 Commissioner may order the suspension of the restricted license  
19 until Respondent passes the examination.

20  
21 February 7, 2003  
22           DATED

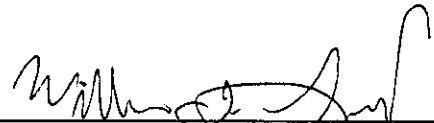
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JAMES L. BEAVER, Counsel  
DEPARTMENT OF REAL ESTATE

1 \* \* \*

2 I have read the Stipulation and Agreement, have  
3 discussed its terms with my attorney, and its terms are  
4 understood by me and are agreeable and acceptable to me. I  
5 understand that I am waiving rights given to me by the  
6 California Administrative Procedure Act (including but not  
7 limited to Sections 11506, 11508, 11509, and 11513 of the  
8 Government Code), and I willingly, intelligently, and  
9 voluntarily waive those rights, including the right of  
10 requiring the Commissioner to prove the allegations in the  
11 Accusation at a hearing at which I would have the right to  
12 cross-examine witnesses against me and to present evidence in  
13 defense and mitigation of the charges.

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15 2/6/03

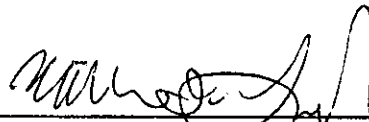
16 DATED

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19 SAXE REAL ESTATE MANAGEMENT  
20 SERVICES, INC.  
21 By: William Isydor Samuels,  
22 D.O. - Broker/Respondent

23  
24 2/6/03

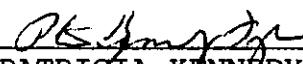
25 DATED

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WILLIAM ISYDOR SAMUELS  
Respondent

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

30  
31 2/5/2003  
32 DATED

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35 PATRICIA KENNEDY FYFE  
36 Attorney for Respondents

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1 \* \* \*

2 The foregoing Stipulation and Agreement for  
3 Settlement is hereby adopted by the Real Estate Commissioner as  
4 her Decision and Order and shall become effective at 12 o'clock  
5 noon on MARCH 14, 2003.

6 IT IS SO ORDERED February 21, 2003.

7 PAULA REDDISH ZINNEMANN  
8 Real Estate Commissioner  
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*Paula Reddish*

FILED

NOV 13 2002

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

DEPARTMENT OF REAL ESTATE

*In the Matter of the Accusation of*

SAXE REAL ESTATE MANAGEMENT  
SERVICES, INC. and  
WILLIAM ISYDOR SAMUELS,

Case No. H-8186 SF

OAH No. N-2002100400

---

*Respondents*

**NOTICE OF HEARING ON ACCUSATION**

*To the above named respondents:*

*You are hereby notified* that a hearing will be held before the Department of Real Estate at

**OFFICE OF ADMINISTRATIVE HEARING, THE ELIHU HARRIS STATE BUILDING,  
1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612**

on **TUESDAY, FEBRUARY 11, 2003**, 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:* NOVEMBER 13, 2002

By James L. Beaver  
JAMES L. BEAVER, COUNSEL

1 JAMES L. BEAVER, Counsel (SBN 60543)  
2 Department of Real Estate  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0788 (Direct)

FILED

AUG 28 2002

DEPARTMENT OF REAL ESTATE

By *David L. Zin*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

12 SAXE REAL ESTATE MANAGEMENT )

13 SERVICES, INC. and )

14 WILLIAM ISYDOR SAMUELS, )

15 Respondents. )

No. H-8186 SF

ACCUSATION

16 The Complainant, Les R. Bettencourt, a Deputy Real  
17 Estate Commissioner of the State of California, for cause of  
18 Accusation against SAXE REAL ESTATE MANAGEMENT SERVICES, INC.  
19 (hereinafter "SAXE"), and WILLIAM ISYDOR SAMUELS (hereinafter  
20 "SAMUELS"), is informed and alleges as follows:

21 I

22 The Complainant, Les R. Bettencourt, a Deputy Real  
23 Estate Commissioner of the State of California, makes this  
24 Accusation in his official capacity.

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1 II

2 At all times herein mentioned, Respondents SAXE and  
3 SAMUELS were and now are licensed and/or have license rights  
4 under the Real Estate Law (Part 1 of Division 4 of the Business  
5 and Professions Code) (hereinafter "the Code").

6 III

7 At all times herein mentioned, Respondent SAXE was and  
8 now is licensed by the Department of Real Estate of the State of  
9 California (hereinafter "the Department") as a corporate real  
10 estate broker by and through Respondent SAMUELS as designated  
11 officer-broker of Respondent SAXE to qualify said corporation  
12 and to act for said corporation as a real estate broker.

13 IV

14 At all times herein mentioned, Respondent SAMUELS was  
15 and now is licensed by the Department as a real estate broker,  
16 individually and as designated officer-broker of Respondent  
17 SAXE. As said designated officer-broker, Respondent SAMUELS was  
18 at all times mentioned herein responsible pursuant to Section  
19 10159.2 of the Code for the supervision of the activities of the  
20 officers, agents, real estate licensees and employees of  
21 Respondent SAXE for which a license is required.

22 V

23 Whenever reference is made in an allegation in this  
24 Accusation to an act or omission of Respondent SAXE, such  
25 allegation shall be deemed to mean that the officers, directors,  
26 employees, agents and real estate licensees employed by or  
27 associated with Respondent SAXE committed such act or omission.

1 while engaged in the furtherance of the business or operations  
2 of Respondent SAXE and while acting within the course and scope  
3 of their corporate authority and employment.

4 VI

5 At all times herein mentioned, Respondents engaged in  
6 the business of, acted in the capacity of, advertised, or  
7 assumed to act as real estate brokers within the State of  
8 California within the meaning of Sections 10131(b) of the Code,  
9 including the operation and conduct of a property management  
10 business with the public wherein, on behalf of others, for  
11 compensation or in expectation of compensation, Respondents  
12 leased or rented and offered to lease or rent, and placed for  
13 rent, and solicited listings of places for rent, and solicited  
14 for prospective tenants of real property or improvements  
15 thereon, and collected rents from real property or improvements  
16 thereon.

17 VII

18 In so acting as real estate brokers, as described in  
19 Paragraph VI above, Respondents accepted or received funds in  
20 trust (hereinafter "trust funds") from or on behalf of owners  
21 and tenants in connection with the leasing, renting, and  
22 collection of rents on real property or improvements thereon, as  
23 alleged herein, and thereafter from time to time made  
24 disbursements of said funds.

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VIII

The aforesaid trust funds accepted or received by Respondents were deposited or caused to be deposited by Respondents into one or more bank accounts (hereinafter "trust fund accounts") maintained by Respondents for the handling of trust funds, including but not necessarily limited to the "Saxe Real Estate Management Services, Inc." account, Account Number 003-9566492, maintained by Respondents at the Van Ness Avenue, San Francisco, California, branch of Wells Fargo Bank (hereinafter "Bank Account #1").

IX

Within the three-year period immediately preceding the filing of this Accusation, in connection with the collection and disbursement of said trust funds, Respondents:

(a) Failed to place trust funds entrusted to Respondent SAXE into the hands of a principal on whose behalf the funds were received, into a neutral escrow depository, or into a trust fund account in the name of Respondent SAXE as trustee at a bank or other financial institution, in conformance with the requirements of Section 10145 of the Code and Section 2832(a) of Chapter 6, Title 10, California Code of Regulations (hereinafter "the Regulations"), in that Respondent SAXE placed such funds in Bank Account #1, an account that was not in the name of Respondent SAXE as trustee;

(b) Caused, suffered or permitted the balance of funds in Bank Account #1 to be reduced to an amount which, as of December 31, 2001, was approximately \$85,849.66 less than the

1 aggregate liability of Respondent SAXE to all owners of such  
2 funds, without the prior written consent of the owners of such  
3 funds;

4 (c) Authorized Cris Etorma, an unlicensed person  
5 without fidelity bond coverage, to make disbursements from Bank  
6 Account #1, and authorized licensed persons Don Bondarenko, Saul  
7 M. Samuels and Xiangming Zhang to make disbursements from Bank  
8 Account #1 without making Respondent SAMUELS an authorized  
9 signatory of said account; and

10 (d) Failed to retain for three years copies of trust  
11 records obtained by Respondent in connection with transactions  
12 for which a real estate broker license is required.

13 X

14 Respondent SAMUELS failed to exercise reasonable  
15 supervision over the acts of Respondent SAXE in such a manner as  
16 to allow the acts and events described in Paragraph IX to occur.

17 XI

18 The facts alleged above are grounds for the suspension  
19 or revocation of the licenses and license rights of Respondents  
20 SAXE and SAMUELS under the following provisions of the Code  
21 and/or the Regulations:

22 (a) As to Paragraph IX(a), under Section 10145 of the  
23 Code and Section 2832 of the Regulations in conjunction with  
24 Section 10177(d) of the Code;

25 (b) As to Paragraph IX(b), under Section 2832.1 of  
26 the Regulations in conjunction with Section 10177(d) of the  
27 Code;


1 (c) As to Paragraph IX(c), under Section 10145 of the  
2 Code and 2834 of the Regulations in conjunction with Section  
3 10177(d) of the Code; and

4 (d) As to Paragraph IX(d), under Section 10148(a) of  
5 the Code in conjunction with Section 10177(d) of the Code.

6 XII

7 The facts alleged in Paragraph X, above, are grounds  
8 for the suspension or revocation of the licenses and license  
9 rights of Respondent SAMUELS under Section 10177(g) and/or  
10 Section 10177(h) of the Code and Section 10159.2 of the Code in  
11 conjunction with Section 10177(d) of the Code.

12 WHEREFORE, Complainant prays that a hearing be  
13 conducted on the allegations of this Accusation and that upon  
14 proof thereof, a decision be rendered imposing disciplinary  
15 action against all licenses and license rights of Respondents  
16 under the Real Estate Law (Part 1 of Division 4 of the Business  
17 and Professions Code), and for such other and further relief as  
18 may be proper under other provisions of law.

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20   
21 LES R. BETTENCOURT  
22 Deputy Real Estate Commissioner

23 Dated at Oakland, California,  
24 this 23rd day of August, 2002.  
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