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BUREAU OF REAL ESTATE

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-11967 SF
SAXE REAL ESTATE MANAGEMENT)	
SERVICES, INC. and)	<u>ACCUSATION</u>
LE STEVEN ZHANG,)	
)	
Respondents.)	

The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity against SAXE REAL ESTATE MANAGEMENT SERVICES, INC. (herein "SREMS") and LE STEVEN ZHANG (herein "ZHANG") (collectively "Respondents"), is informed and alleges as follows:

1

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

2

At all times herein mentioned, SREMS was and now is licensed by the State of California Bureau of Real Estate (herein "the Bureau") as a restricted corporate real estate broker, which restriction was effective March 3, 2003, by and through ZHANG as designated officer-

broker of SREMS to qualify said corporation and to act for said corporation as a real estate broker.

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At all times herein mentioned, ZHANG was and now is licensed by the Bureau as the designated officer-broker of SREMS. As said designated officer-broker, ZHANG was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of SREMS for which a license is required.

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Whenever reference is made in an allegation in this Accusation to an act or omission of SREMS, such allegation shall be deemed to mean that the officers, directors, employees, agents and/or real estate licensees employed by or associated with SREMS committed such act or omission while engaged in the furtherance of the business or operations of such corporate respondent and while acting within the course and scope of their authority and employment.

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At all times herein mentioned Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers wherein, on behalf of others, for compensation or in expectation of compensation within the State of California within the meaning of Sections:

- (a) 10131(a) of the Code, including the operation and conduct of a real estate brokerage with the public wherein Respondents sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property or a business opportunity; and
- (b) 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, Respondents leased or rented

or offered to lease or rent, or placed for rent, or solicited listings or places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property or on a business opportunity, or collected rents from real property, or improvements thereon, or from business opportunities.

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In so acting as real estate brokers as described in Paragraph 5, above, Respondents accepted or received funds in trust (herein "trust funds") from or on behalf of sellers, purchasers, tenants, owners, and others in connection with real estate sales, leasing, renting, and collection of rents on real property or improvements thereon, and thereafter from time to time made disbursements of said funds.

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The aforesaid trust funds accepted or received by Respondents were deposited or caused to be deposited by Respondents into one or more bank accounts (herein "trust fund accounts") maintained by Respondents for the handling of trust funds at the following financial institutions:

- (a) First Republic Bank, San Francisco, CA 94109, account name "Saxe Real Estate Management," account number xxx-xx5-788 (herein "Bank Account #1"); and
- (b) Wells Fargo Bank, San Francisco, CA 94109, account name "Saxe Real Estate Management RETA ("Real Estate Trust Account")," account number xxxx6492 (herein "Trust Account #1").

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Between about December 9, 2015 and about December 10, 2015, an audit was conducted of the records of Respondents in connection with the activities described in Paragraphs 5, 6 and 7, above. The auditor herein examined the records for the period between about November 1, 2014 and about November 30, 2015, and found Respondents:

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- 1 (a) caused, suffered or permitted the balance of funds in Bank
2 Account #1 and Trust Account #1, combined, to be reduced to
3 amounts, which as of October 31, 2015, were approximately
4 \$49,710.01, less than the aggregate liability of SREMS to all owners
5 of such funds, without the prior written consent of the owners of
6 such funds, in violation of Section 10145 of the Code and Section
7 2832.1 of Chapter 6, Title 10, of the California Code of
8 Regulations (herein "the Regulations");
- 9 (b) failed to place trust funds entrusted to Respondent into the hands of a
10 principal on whose behalf the funds were received, into a neutral
11 escrow depository, or into a trust fund account in the name of
12 Respondents as trustees at a bank or other financial institution, in
13 that trust funds were deposited into Bank Account #1, in violation of
14 Section 10145 of the Code and Section 2832 the Regulations;
- 15 (c) failed to maintain an accurate columnar record in chronological sequence
16 of all trust funds received and disbursed for each trust fund account
17 containing all required information, in that separate columnar records were
18 not maintained for Bank Account #1 and for Trust Account #1, in
19 violation of Section 2831 of the Regulations;
- 20 (d) failed to keep a separate record for each beneficiary or transaction for each
21 trust account containing all required information, in that separate records
22 were not maintained for each of the trust funds accounts, Bank Account #1
23 and Trust Account #1, in violation of Section 10145 of the Code and
24 Section 2831.1 of the Regulations;
- 25 (e) failed to reconcile at least once a month, the balance of all
26 beneficiary or transaction records for each trust fund account
27 separately, in that reconciliations were not performed separately for

Bank Account #1 and Trust Account #1, rather a single reconciliation combined Bank Account #1 and Trust Account #1, in violation of Section 10145 of the Code and Section 2831.2 of the Regulations; and

- (f) failed to maintain broker-salesperson relationship agreements containing all required information, in that the agreements maintained between SREMS and its salespersons failed to include a broker supervision provision, in violation of Section 2726 of the Regulations.

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The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondents under the following provisions of the Code and Regulations:

- (a) as to Paragraph 8(a) under Section 10145 of the Code and Section 2832.1 of the Regulations, in conjunction with Section 10177(d) of the Code;
- (b) as to Paragraph 8(b) under Section 10145 of the Code and Section 2832 of the Regulations, in conjunction with Section 10177(d) of the Code;
- (c) as to Paragraph 8(c) under Section 10145 of the Code and Section 2831 of the Regulations, in conjunction with Section 10177(d) of the Code
- (d) as to Paragraph 8(d) under Section 10145 of the Code and Section 2831.1 of the Regulations, in conjunction with Section 10177(d) of the Code;
- (e) as to Paragraph 8(e) under Section 10145 of the Code and Section 2831.2 of the Regulations, in conjunction with Section 10177(d) of

the Code; and

(f) as to Paragraph 8(f) under Section 2726 of the Regulations, in conjunction with Section 10177(d) of the Code.

PRIOR DISCIPLINE

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Effective March 14, 2003, in Case No. H-8186 SF, the Real Estate Commissioner revoked with leave to issue SREMS a restricted corporate real estate broker license for violating Sections 10145, 10148(a) and 10177(d) of the Code and Sections 2832, 2832.1 and 2834 of the Regulations.

COST RECOVERY

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Audit Costs

The acts and/or omissions of Respondents as alleged above entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.

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Investigation and Enforcement Costs

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the Administrative Law Judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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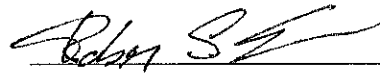
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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and license rights of Respondents under the Real Estate Law (Part 1
4 of Division 4 of the Business and Professions Code), for the cost of the investigation and
5 enforcement as permitted by law, and for such other and further relief as may be proper under
6 other applicable provisions of law.

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9 ROBIN S. TANNER
10 Supervising Special Investigator

11 Dated at Oakland, California

12 this 5th day of May, 2016.
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