

1 BUREAU OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

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FILED

OCT 13 2016

BUREAU OF REAL ESTATE

By B. Nicholas

8 BEFORE THE BUREAU 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 LE Steven Zhang,)

NO. H-11967 SF

15) STIPULATION AND AGREEMENT
16) IN SETTLEMENT AND ORDER

Respondents.)

17 It is hereby stipulated by and between Respondents Saxe Real Estate
18 Management Services, Inc. (herein "SREMS") and LE Steven Zhang (herein
19 "Zhang") (herein collectively, "Respondents") acting by and through Patricia Kennedy Fyfe,
20 attorney of record for Respondents, and the Complainant, acting by and through Mary F. Clarke,
21 Counsel for the Bureau of Real Estate (herein "the Bureau"), as follows for the purpose of
22 settling and disposing the Accusation filed on May 9, 2016, in this matter (herein "Accusation"):

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

1 2. Respondents have received, read and understand the Statement to Respondent,
2 the Discovery Provisions of the APA, and the Accusation filed by the Bureau in this proceeding.

3 3. Notices of Defense were filed on May 17, 2016, by Respondents pursuant to
4 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
5 in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense.
6 Respondents acknowledge they understand that by withdrawing said Notices of Defense they will
7 thereby waive their rights to require the Real Estate Commissioner (herein "the Commissioner")
8 to prove the allegations in the Accusation at a contested hearing held in accordance with the
9 provisions of the APA and that they will waive other rights afforded to them in connection with
10 the hearing such as the right to present evidence in defense of the allegations in the Accusation
11 and the right to cross-examine witnesses.

12 4. Respondents, pursuant to the "Determination of Issues" set forth below,
13 hereby admit that the factual allegations in the Accusation filed in this proceeding are true and
14 correct and the Commissioner shall not be required to provide further evidence of such
15 allegations.

16 5. It is understood by the parties that the Commissioner may adopt this
17 Stipulation as his decision in this matter thereby imposing the penalty and sanctions on
18 Respondents' real estate licenses and license rights as set forth in the below "Order." In the event
19 the Commissioner in his discretion does not adopt this Stipulation, it shall be void and of no
20 effect, and Respondents shall retain the right to a hearing and proceeding on the Accusation
21 under all the provisions of the APA and shall not be bound by any admission or waiver made
22 herein.

23 6. The "Order" or any subsequent Order of the Commissioner made pursuant to
24 this Stipulation shall not constitute an estoppel, merger, or bar to any further administrative or
25 civil proceedings by the Bureau with respect to any matters which were not specifically alleged to
26 be causes for accusation in this proceeding.

1 7. Respondents understand that by agreeing to this Stipulation, Respondents
2 agree to pay, jointly and severally, pursuant to Section 10148 of the Code, the cost of the audit
3 which resulted in the determination that Respondents committed the violations found in the
4 "Determination of Issues" below. The amount of said cost is \$5,106.90.

5 8. Respondents understand that by agreeing to this Stipulation, the findings set
6 forth below in the "Determination of Issues" become final, and that the Commissioner may
7 charge Respondents for the cost of any audit conducted pursuant to Section 10148 of the Code to
8 determine if the trust fund violations found in the "Determination of Issues," below, have been
9 corrected. The maximum cost of said audit shall not exceed \$6,383.63.

10 9. Respondents further understand that by agreeing to this Stipulation,
11 Respondents agree to pay, jointly and severally, pursuant to Section 10106(a) of the Code,
12 investigative and enforcement costs of \$2,062.55 which led to this disciplinary action.

13 DETERMINATION OF ISSUES

14 The acts and/or omissions of Respondents as described in the Accusation are
15 grounds for the suspension or revocation of the licenses and license rights of Respondents under
16 the following provisions of the Code and/or Chapter 6, Title 10, California Code of Regulations
17 (herein "the Regulations"):

- 18 (a) as to Paragraph 8(a) under Section 10145 of the Code and Section
19 2832.1 of the Regulations, in conjunction with Section 10177(d) of
20 the Code;
21 (b) as to Paragraph 8(b) under Section 10145 of the Code and Section
22 2832 of the Regulations, in conjunction with Section 10177(d) of the
23 Code;
24 (c) as to Paragraph 8(c) under Section 10145 of the Code and Section
25 2831 of the Regulations, in conjunction with Section 10177(d) of the
26 Code
27

- 1 (d) as to Paragraph 8(d) under Section 10145 of the Code and Section
2 2831.1 of the Regulations, in conjunction with Section 10177(d) of
3 the Code;
4 (e) as to Paragraph 8(e) under Section 10145 of the Code and Section
5 2831.2 of the Regulations, in conjunction with Section 10177(d) of
6 the Code; and
7 (f) as to Paragraph 8(f) under Section 2726 of the Regulations, in
8 conjunction with Section 10177(d) of the Code.

9 ORDER

10 I

11 All licenses and licensing rights of Respondent SREMS under the Real
12 Estate Law are suspended for a period of 60 days from the effective date of this Decision;
13 provided, however, that:

14 1) 30 days of said suspension shall be stayed, upon the condition that
15 Respondent petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
16 pursuant to Section 10175.2 of the Code at a rate of \$100.00 per day for a total monetary penalty
17 of \$3,000.00.

18 a) Said payment shall be in the form of a cashier's check made payable
19 to the Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate,
20 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of
21 this Decision.

22 b) No further cause for disciplinary action against the Real Estate license of
23 Respondent occurs within two (2) years from the effective date of the Decision in this matter.

24 c) If Respondent fails to pay the monetary penalty in accordance with the
25 terms and conditions of this Decision, the suspension shall go into effect automatically.

1 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money
2 paid to the Bureau under the terms of this Decision

3 d) If Respondent pays the monetary penalty and any other moneys due under
4 this Stipulation and if no further cause for disciplinary action against the real estate license of
5 Respondent occurs within two (2) years from the effective date of this Decision, the entire stay
6 hereby granted pursuant to this Decision shall become permanent.

7 2) 30 days of said suspension shall be stayed for two (2) years upon the
8 following terms and conditions:

9 a) Respondent shall obey all laws, rules and regulations governing the rights,
10 duties and responsibilities of a real estate licensee in the State of California; and,

11 b) That no final subsequent determination be made, after hearing or upon
12 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
13 date of this Decision. Should such a determination be made, the Commissioner may, in his
14 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
15 suspension. Should no such determination be made, the stay imposed herein shall become
16 permanent.

17 3) Pursuant to Section 10148 of the Code, Respondent SREMS, jointly and
18 severally with Respondent ZHANG, shall pay the sum of \$5,106.90 for the Commissioner's cost
19 of the audit which led to this disciplinary action. **Respondent shall pay such cost within sixty**
20 **(60) days of receiving an invoice therefore from the Commissioner.** Payment of audit costs
21 should not be made until Respondent receives the invoice. If Respondent fails to satisfy this
22 condition in a timely manner as provided for herein, Respondent's real estate license shall
23 automatically be suspended until payment is made in full, or until a decision providing otherwise
24 is adopted following a hearing held pursuant to this condition.

25 4) Pursuant to Section 10148 of the Code, Respondent SREMS, jointly and
26 severally with Respondent ZHANG, shall pay the Commissioner's reasonable cost, not to exceed
27

1 \$6,383.63, for an audit to determine if Respondent has corrected the violations found in the
2 "Determination of Issues." In calculating the amount of the Commissioner's reasonable cost, the
3 Commissioner may use the estimated average hourly salary for all persons performing audits of
4 real estate brokers, and shall include an allocation for travel time to and from the auditor's place
5 of work. **Respondent shall pay such cost within sixty (60) days of receiving an invoice**
6 **therefore from the Commissioner.** Payment of the audit costs should not be made until
7 Respondent receives the invoice. If Respondent fails to satisfy this condition in a timely manner
8 as provided for herein, Respondent's real estate license shall automatically be suspended until
9 payment is made in full, or until a decision providing otherwise is adopted following a hearing
10 held pursuant to this condition.

11 5) All licenses and licensing rights of Respondent SREMS are indefinitely
12 suspended unless or until Respondent SREMS, jointly and severally with Respondent ZHANG,
13 pays the sum of \$2,062.55 for the Commissioner's reasonable cost of the investigation and
14 enforcement which led to this disciplinary action. Said payment shall be in the form of a
15 cashier's check made payable to the Bureau of Real Estate. **The investigative and enforcement**
16 **costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013,**
17 **Sacramento, CA 95813-7013, prior to the effective date of this Decision.**

18 II

19 All license and licensing rights of Respondent ZHANG under the Real
20 Estate Law are suspended for a period of 60 days from the effective date of this Decision;
21 provided, however, that:

22 1) 30 days of said suspension shall be stayed, upon the condition that Respondent
23 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section
24 10175.2 of the Code at a rate of \$100.00 per day for a total monetary penalty of \$3,000.00.

25 a) Said payment shall be in the form of a cashier's check made payable
26 to the Bureau of Real Estate. Said check must be delivered to the Bureau of Real Estate,
27

1 **Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of**
2 **this Decision.**

3 b) No further cause for disciplinary action against the Real Estate license of
4 Respondent occurs within two (2) years from the effective date of the Decision in this matter.

5 c) If Respondent fails to pay the monetary penalty in accordance with the
6 terms and conditions of this Decision, the suspension shall go into effect automatically.

7 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money
8 paid to the Bureau under the terms of this Decision

9 d) If Respondent pays the monetary penalty and any other moneys due under
10 this Stipulation and if no further cause for disciplinary action against the real estate license of
11 Respondent occurs within two (2) years from the effective date of this Decision, the entire stay
12 hereby granted pursuant to this Decision shall become permanent.

13 2) 30 days of said suspension shall be stayed for two (2) years upon the following
14 terms and conditions:

15 a) Respondent shall obey all laws, rules and regulations governing the rights,
16 duties and responsibilities of a real estate licensee in the State of California; and,

17 b) That no final subsequent determination be made, after hearing or upon
18 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
19 date of this Decision. Should such a determination be made, the Commissioner may, in his
20 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
21 suspension. Should no such determination be made, the stay imposed herein shall become
22 permanent.

23 3) All licenses and licensing rights of Respondent are indefinitely suspended
24 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and
25 successfully completed the continuing education course on trust fund accounting and handling
26 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
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1 satisfaction of these requirements includes evidence that Respondent has successfully completed
2 the trust fund account and handling continuing education courses, no earlier than 120 days prior
3 to the effective date of the Decision in this matter. **Proof of completion of the trust fund**
4 **accounting and handling course must be delivered to the Bureau of Real Estate, Flag**
5 **Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to**
6 **the effective date of this Decision.**

7 4. Pursuant to Section 10148 of the Code, Respondent shall pay, jointly and
8 severally with Respondent SREMS, the sum of \$5,106.90 for the Commissioner's cost of the
9 audit which led to this disciplinary action. **Respondent shall pay such cost within sixty (60)**
10 **days of receiving an invoice therefore from the Commissioner.** Payment of audit costs should
11 not be made until Respondent receives the invoice. If Respondent fails to satisfy this condition
12 in a timely manner as provided for herein, Respondent's real estate license shall automatically be
13 suspended until payment is made in full, or until a decision providing otherwise is adopted
14 following a hearing held pursuant to this condition.

15 5. Pursuant to Section 10148 of the Code, Respondent shall pay, jointly and
16 severally with Respondent SREMS, the Commissioner's reasonable cost, not to exceed
17 \$6,383.63, for an audit to determine if Respondent has corrected the violation(s) found in the
18 Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the
19 Commissioner may use the estimated average hourly salary for all persons performing audits of
20 real estate brokers, and shall include an allocation for travel time to and from the auditor's place
21 of work. **Respondent shall pay such cost within sixty (60) days of receiving an invoice**
22 **therefore from the Commissioner.** Payment of the audit costs should not be made until
23 Respondent receives the invoice. If Respondent fails to satisfy this condition in a timely manner
24 as provided for herein, Respondent's real estate license shall automatically be suspended until
25 payment is made in full, or until a decision providing otherwise is adopted following a hearing
26 held pursuant to this condition.
27

1 6. All licenses and licensing rights of Respondent are indefinitely suspended
2 unless or until Respondent, jointly and severally with Respondent SREMS, pays the sum of
3 \$2,062.55 for the Commissioner's reasonable cost of the investigation and enforcement which
4 led to this disciplinary action. Said payment shall be in the form of a cashier's check made
5 payable to the Bureau of Real Estate. **The investigative and enforcement costs must be**
6 **delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA**
7 **95813-7013, prior to the effective date of this Decision.**

8 7. Respondent shall, within six (6) months from the effective date of this
9 **Decision**, take and pass the Professional Responsibility Examination administered by the Bureau
10 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
11 condition, Respondent's real estate license shall automatically be suspended until Respondent
12 passes the examination.

13
14 8-17-14
15 DATED

16 
17 MARY F. CLARKE, Counsel
18 Bureau of Real Estate

19 * * *

20 Respondents can signify acceptance and approval of the terms and conditions of
21 this Stipulation by faxing or electronically e-mailing a copy of the signature page, as actually
22 signed by Respondents, to the Bureau at fax number (916) 263-3767. Respondents agree,
23 acknowledge and understand that by electronically sending to the Bureau a fax or other electronic
24 copy of Respondents' actual signatures as they appear on the Stipulation, that receipt of the faxed
25 or e-mailed copy by the Bureau shall be as binding on Respondents as if the Bureau had received
26 the original signed Stipulation.

27 We have read this Stipulation and its terms are understood by us and are agreeable
and acceptable to us. We understand that we are waiving rights given to us by the California


1 APA (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government
2 Code), and we willingly, intelligently, and voluntarily waive those rights, including the right of
3 requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we
4 would have the right to cross-examine witnesses against us and to present evidence in defense
5 and mitigation of the charges.

7 SAXE REAL ESTATE MANAGEMENT
8 SERVICES, INC.
9 Respondent

10 8/11/2016

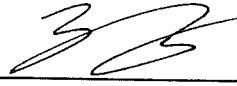
11 DATED

By:

12 
13 LE STEVEN ZHANG
14 Designated Officer Broker

15 8/11/2016

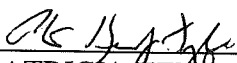
16 DATED

17 
18 LE STEVEN ZHANG
19 Respondent

20 * * *

21 I have reviewed the Stipulation and Agreement in Settlement and Order as to form
22 and content and have advised my client accordingly.

23 8/11/2016
24 DATED

25 
26 PATRICIA KENNEDY FYFE
27 Attorney for Respondent

* * *

The foregoing Stipulation and Agreement in Settlement and Order is hereby

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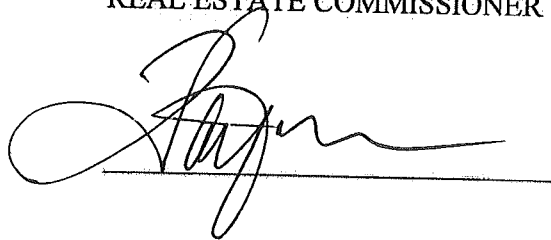
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adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
NOV 03 2016, 2016.

IT IS SO ORDERED October 8, 2016.

WAYNE S. BELL
REAL ESTATE COMMISSIONER

A handwritten signature in cursive script, appearing to read 'Wayne S. Bell', is written over a horizontal line.