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FILED

DEC 26 2023

DEPT. OF REAL ESTATE

By



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8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-42686 LA
13)
14 TEMEREALTY CORPORATION,) ACCUSATION
15 JAMES WILLIAM MUCCIOLA,)
16 individually and as former designated officer)
17 of Temerealty Corporation, and)
18 QUN XIAO)
19 Respondents.)
20)

21 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
22 State of California, for cause of Accusation against TEMEREALTY CORPORATION, JAMES
23 WILLIAM MUCCIOLA, individually and as former designated officer of Temerealty
24 Corporation, and QUN XIAO (“Respondents”), is informed and alleges as follows:

25 1.

26 The Complainant, Veronica Kilpatrick, acting in her official capacity as a
27 Supervising Special Investigator of the State of California, makes this Accusation against
Respondents TEMEREALTY CORPORATION, JAMES WILLIAM MUCCIOLA, and QUN
XIAO.

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Accusation of TEMEREALTY CORPORATION, JAMES WILLIAM MUCCIOLA, and QUN XIAO

1 2.

2 All references to the "Code" are to the California Business and Professions Code
3 and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

4 LICENSE HISTORY

5 3.

6 Respondent TEMERREALTY CORPORATION ("TEMERREALTY") presently
7 has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a corporate
8 real estate broker.

9 4.

10 Respondent JAMES WILLIAM MUCCIOLA ("MUCCIOLA") presently has
11 license rights as a restricted real estate broker.

12 5.

13 From July 15, 2021, to April 24, 2023, Respondent TEMERREALTY was
14 licensed by the Department of Real Estate ("Department") as a corporate real estate broker by
15 and through Respondent MUCCIOLA, as the designated officer and broker responsible,
16 pursuant to Code section 10159.2, for supervising the activities requiring a real estate license
17 conducted on behalf of TEMERREALTY, or by TEMERREALTY'S officers, agents and
18 employees.

19 6.

20 From April 25, 2023, to the present, Respondent TEMERREALTY is licensed by
21 the Department but not affiliated with a designated officer.

22 7.

23 Respondent QUN XIAO ("XIAO") presently has license rights as a salesperson.
24 On April 20, 2023, XIAO'S license expired. Pursuant to Code section 10201, XIAO retains
25 renewal rights for two years. The Department of Real Estate holds jurisdiction over the lapsed
26 license, pursuant to Code section 10103.

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Accusation of TEMERREALTY CORPORATION, JAMES WILLIAM MUCCIOLA, and QUN XIAO

1 8.

2 From July 16, 2021, to February 9, 2023, Respondent XIAO was affiliated with
3 broker Respondent TEMERREALTY.

4 PRIOR LICENSE DISCIPLINE

5 9.

6 On or about March 23, 2023, the Real Estate Commissioner in Case
7 No. H-42344 LA adopted as his Decision (“Decision”) effective on or about April 24, 2023, a
8 Stipulation and Agreement entered on or about February 22, 2023, by Respondent
9 MUCCIOLA and the Department where MUCCIOLA stipulated to the acts and omissions in
10 the Accusation as grounds for disciplinary action in that: MUCCIOLA violated Code
11 section 10159.2 and Regulations section 2725.

12 BROKERAGE

13 TEMERREALTY CORPORATION

14 10.

15 At all times mentioned, in the City of Temecula, County of Riverside,
16 Respondent TEMERREALTY acted as a real estate broker, conducting licensed activities within
17 the meaning of Code section 10131(a) (sells, buys, or negotiates the purchase, sale or exchange
18 of real property).

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AUDIT

TEMEREALTY CORPORATION

11.

On March 28, 2023, the Department completed audit examinations of the books and records of Respondent TEMEREALTY pertaining to the activities described in Paragraph 10 which require a real estate license. The audit examinations covered a period of time from July 15, 2021, to December 31, 2022. The audit examinations revealed violations of the Code and the Regulations as set forth in the following paragraphs, and as more fully discussed in Audit Report SD220017 and the exhibits and workpapers attached to said audit report.

AUDIT VIOLATIONS OF THE REAL ESTATE LAW

12.

In the course of activities described in Paragraph 10 above and during the examination period described in Paragraph 11 above, Respondents TEMEREALTY, MUCCIOLA, and XIAO acted in violation of the Code and the Regulations in that:

12(a) Respondent TEMEREALTY maintained branch offices at 27393 Ynez Road Suite 254, Temecula, California 92591, at 28364 Vincent Moraga Drive #A, Temecula, California 92590, and at 250 W Tasman Dr. Suite 180, San Jose, California, 95134, and failed inform the Real Estate Commissioner of the branch offices, in violation of Code section 10163 and Regulations section 2715.

12(b) On or about July 18, 2021, Respondents TEMEREALTY and XIAO entered into a Residential Listing Agreement with seller Q. Zheng to sell real property at 18492 Hillview Ln, Lake Elsinore, California, 92530. The Residential Listing Agreement was an exclusive agreement that did not contain a definite, specified date of final and complete termination, in violation of Code section 10176(f).

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1 12(c) On or about January 25, 2023, a subpoena was served to Respondent
2 TEMEREALTY for the production of books and records related to the brokerage activities
3 conducted by TEMEREALTY. TEMEREALTY failed to retain and make available for
4 examination, copying, and inspection the books, accounts, and records related to Respondent’s
5 brokerage activities for the audit period, in violation of Code section 10148.

6 12(d) The conduct, acts, or omissions of Respondent MUCCIOLA, as
7 described in Paragraph 12, in failing to ensure compliance of the Real Estate Law by
8 Respondent TEMEREALTY, is in violation of Code section 10159.2 and Regulations
9 section 2725.

10 13.

11 The conduct, acts, or omissions of Respondent TEMEREALTY, described in
12 Paragraph 12 above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
11(a)	Code section 10163 and Regulations section 2715 (Respondent TEMEREALTY)
11(b)	Code section 10176(f) (Respondents TEMEREALTY and XIAO)
11(c)	Code section 10148 (Respondent TEMEREALTY)
11(d)	Code section 10159.2 and Regulations section 2725 (Respondent MUCCIOLA)

13 13.

14 The foregoing violations constitute cause for the suspension or revocation of all
15 the licenses, license endorsements, and license rights of Respondent TEMEREALTY under the
16 Real Estate Law pursuant to the provisions of Code sections 10165, 10176(f), 10177(d), and
17 10177(g).

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19 ///

20 Accusation of TEMEREALTY CORPORATION, JAMES WILLIAM MUCCIOLA, and QUN XIAO

1 The foregoing violations constitute cause for the suspension or revocation of all
2 the licenses, license endorsements, and license rights of Respondent MUCCIOLA under the
3 Real Estate Law pursuant to the provisions of Code sections 10177(d), 10177(g), and 10177(h).

4 The foregoing violations constitute cause for the suspension or revocation of all
5 the licenses, license endorsements, and license rights of Respondent XIAO under the Real
6 Estate Law pursuant to the provisions of Code sections 10176(f), 10177(d), and 10177(g).

7 14.

8 Code Section 10106 provides, in pertinent part, that in any order issued in
9 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
10 may request the administrative law judge to direct a licensee found to have committed a
11 violation of this part to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 WHEREFORE, Complainant prays that a hearing be conducted on the
14 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
15 disciplinary action against all the licenses, license endorsements, and license rights of
16 Respondents TEMERREALTY CORPORATION, JAMES WILLIAM MUCCIOLA, and QUN
17 XIAO under the Real Estate Law, for the cost of audit, investigation, and enforcement as
18 permitted by law, and for such other and further relief as may be proper under other applicable
19 provisions of law.

20
21 Dated at San Diego, California

22 this 22 day of December, 2023

23
24 
25 _____
26 Veronica Kilpatrick
27 Supervising Special Investigator

cc: TEMERREALTY CORPORATION
JAMES WILLIAM MUCCIOLA
Accusation of TEMERREALTY CORPORATION, JAMES WILLIAM MUCCIOLA, and QUN XIAO

QUN XIAO
Veronica Kilpatrick
Sacto.
Audits

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