

FILED

MAR - 5 2024

DEPT. OF REAL ESTATE

By [Redacted Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of:)
) DRE No. H-42686 LA
)
)
TEMEREALTY CORPORATION,)
 JAMES WILLIAM MUCCIOLA,)
 individually and as former designated)
 officer of Temerealty Corporation, and)
QUN XIAO,)
)
)
)
)
)
)
 Respondents.)

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on January 30, 2024 , and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondents TEMEREALTY CORPORATION and QUN XIAO (“Respondents”); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses on the grounds of the violation of the Real Estate Law, Part 1 commencing with Section 10000 of the Business and Professions Code (“Code”) and/or the Regulations of the Real Estate Commissioner, Title 10, Chapter 6 of the California Code of Regulations (“Regulations”).

Pursuant to Government Code Section 11521, the California Department of Real Estate (“the Department”) may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department’s power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a

revoked real estate license, or to the reduction of a penalty, is controlled by Section 11522 of the Government Code. A copy of Government Code Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

FINDINGS OF FACT

1.

On December 22, 2023, Veronica Kilpatrick made the Accusation in her official capacity as a Supervising Special Investigator of the Department. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondents' last known mailing address on file with the Department on December 26, 2023.

2.

On January 30, 2024, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondents' default was entered.

LICENSE HISTORY

3.

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

4.

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

5.

To date, the Department has incurred investigation costs of \$1,478.05.

6.

To date, the Department has incurred audit costs of \$6,566.00.

7.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on December 26, 2023, which is incorporated herein as part of this Decision.

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DETERMINATION OF ISSUES

1.

The conduct, acts, and omissions of Respondents TEMERREALTY and XIAO, as described in the Accusation, Paragraph 12, are in violation of Code sections 10148, 10163, and 10176(f) and Regulations section 2715 and constitute cause under Code sections 10165, 10176(f), 10177(d), and 10177(g) for the suspension or revocation of all the licenses, license endorsements, and license rights of TEMERREALTY and XIAO.

2.

The standard of proof applied was clear and convincing evidence to a reasonable certainty.

ORDER

All licenses and licensing rights of Respondents TEMERREALTY CORPORATION and QUN XIAO under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on 3/25/2024.

DATED: 2/26/24.

CHIKA SUNQUIST
REAL ESTATE COMMISSIONER




By: Marcus L. McCarther
Chief Deputy Real Estate Commissioner

FILED

JAN 30 2024

DEPT. OF REAL ESTATE

By= 

1 Department of Real Estate
2 320 West Fourth St, Ste 350
3 Los Angeles, CA, 90013
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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:)	DRE NO. <i>H-42686 LA</i>
)	
)	<u>DEFAULT ORDER</u>
12)	
13 <u>TEMEREALTY CORPORATION,</u>)	
14 <u>JAMES WILLIAM MUCIOLA,</u>)	
15 Individually and as former designated)	
16 Officer of Teerealty Corporation, and)	
<u>QUN XIAO,</u>)	
)	
Respondents.)	
)	

17
18 Respondents TEMEREALTY CORPORATION and QUN XIAO, having
19 failed to file a Notice of Defense within the time required by Section 11506 of the
20 Government Code, is now in default. It is, therefore, ordered that a default be entered on the
21 record in this matter.

22 IT IS SO ORDERED JANUARY 30, 2024.

23 CHIKA SUNQUIST
24 REAL ESTATE COMMISSIONER

25 

26 By: Marcus L. McCarther
27 Chief Deputy Real Estate Commissioner

1 STEVE CHU, Attorney (SBN 238155)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

4 Telephone: (213) 620-6430
5 Fax: (213) 576-6917

FILED

DEC 26 2023

DEPT. OF REAL ESTATE

By. 

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)
QUN XIAO)
Respondents.)

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

22 1.

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

27 ///

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

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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>
14 11(a)	Code section 10163 and Regulations section 2715 15 (Respondent TEMEREALTY)
16 11(b)	Code section 10176(f) 17 (Respondents TEMEREALTY and XIAO)
18 11(c)	Code section 10148 19 (Respondent TEMEREALTY)
20 11(d)	Code section 10159.2 and Regulations section 2725 21 (Respondent MUCCIOLA)

22 The foregoing violations constitute cause for the suspension or revocation of all
23 the licenses, license endorsements, and license rights of Respondent TEMEREALTY under the
24 Real Estate Law pursuant to the provisions of Code sections 10165, 10176(f), 10177(d), and
25 10177(g).

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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 Veronica Kilpatrick
26 Supervising Special Investigator

27 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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