

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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**FILE COPY**

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
GARY L. SEBOLD,	:	
DEBRA K. McFADDEN,	:	LS <u>0306263</u> REF
RESPONDENTS	:	

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Division of Enforcement Case Files:  
(00 REB 293, 01 REB 042, 01 REB 079, 01 REB 085)

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Gary L. Sebold  
812 Huntington Drive  
Sun Prairie, WI 53590

Debra K. McFadden  
1120 Oak Street  
Wisconsin Dells, Wisconsin 53965

Real Estate Board  
PO Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
PO Box 8935  
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Gary L. Seybold (D.O.B. 9/04/1950) is duly licensed to practice as a real estate broker in the state of Wisconsin (license #90-39329). This license was first granted on December 22, 1986.
2. The latest address known to the Department of Regulation and Licensing for Gary L. Seybold is 812 Huntington Drive, Sun Prairie, Wisconsin, 53590.

3. Gary L. Seybold is and was, at all times relevant hereto, the supervising broker for Mirror Lake Realty, a duly licensed real estate business entity in the state of Wisconsin, having license # 91-835311. This license was first issued on March 16, 2000.

4. Mirror Lake Realty is and was, at times relevant hereto, in the business of selling real estate time-shares. The latest address known to the Department of Regulation and Licensing for Mirror Lake Realty, Inc., is E10037 Xanadu Road, Wisconsin Dells, Wisconsin, 53965.

5. Mirror Lake Realty was, at times relevant hereto, owned by Equivest Finance, Inc.

6. In February 2002, Equivest Finance, Inc., was purchased by the Cendant Corporation, which continues to operate and manage Mirror Lake Realty through their subsidiary, Fairfield Resorts.

7. In his capacity as supervising broker, Gary L. Seybold was responsible for the supervision of the licensed time-share salespersons and for the review of the time-share sales contracts and the broker's trust account for Mirror Lake Realty.

8. Debra K. McFadden is and was, at all times relevant hereto, a timeshare salesperson in the state of Wisconsin (license #93-1422). Her license was first granted on January 23, 1998.

9. The Department records indicate that Debra K. McFadden's time-share license expired on January 1, 1999 and was not renewed until April 30, 2001.

10. The Department records indicate that Debra K. McFadden's time-share license again expired on January 1, 2002 and has remained in expired status since that date.

11. On June 13, 2001, the Department conducted an investigation and audit of the trust account records of Mirror Lake Realty. The auditors randomly selected and reviewed fifty (50) time-share sales files. The following is a summary of their findings:

- a). Time-share sales contracts had incomplete or missing terms.
- b). Time-share contracts that were not signed by the time-share salesperson or broker.
- c). Time-share contracts were signed on behalf of Mirror Lake Realty in an illegible manner by persons whose license status was unknown.
- d). Debra K. McFadden signed time-share contracts while her time-share salesperson license was in expired status.
- e). The mandatory required WB-26 state-approved forms for the sale of time-shares were not utilized consistently.
- f). The bookkeeping journals and ledgers for the broker's trust account had not been maintained.
- g). Monthly bank statement reconciliations, trial balances and validations of the trust account had not been performed.

h). Three bank statements for the Mirror Lake Realty broker's trust account for the periods of 4/29/00 to 5/31/00; for 8/01/2000 to 8/31/2000 and for 2/01/01 to 2/28/01, were missing.

12. In resolution of this matter, Respondents consent to the following Conclusions of Law and Order.

### CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction over this matter, pursuant to sec. 440.26, Wis. Stats.

2. The Wisconsin Real Estate Board is authorized to enter into the attached stipulation, pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent Gary L. Seybold has violated:

a) Sec. RL 18.13, (1) through (5) Wis. Admin. Code, which provides that each broker shall maintain and be responsible for a bookkeeping system in the broker's office consisting of a cash journal, ledger, which shall be reconciled and validated in writing each month were there has been activity.

b) Sec. 452.12(3) Wis. Stats., which provides that each broker shall supervise, and is responsible for the acts of any broker, salesperson or time-share salesperson employed by the broker.

4. Respondent Debra K. McFadden has violated:

a) Sec. 452.03, Wis. Stats., which provides that no person may engage in or follow the business or occupation of, or advertise or hold himself or herself out as, act temporarily or otherwise as a broker or salesperson without a license.

### ORDER

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the attached Stipulation is accepted.

**IT IS FURTHER ORDERED** that the broker's license of Gary L. Seybold (# 90-39329) is **REPRIMANDED**.

**IT FURTHER ORDERED** that Respondent Gary L. Seybold shall pay a forfeiture in the amount of one thousand five hundred (\$1,500.00) dollars and shall successfully complete the course modules, *Trust Accounts*, and the course module *Approved Forms*, from the Real Estate Broker's Pre-License Program, within sixty (60) days from the effective date of this order.

IT IS FURTHER ORDERED that the time-share license of Debra K. McFadden (# 93-1422) is **REPRIMANDED**.

IT IS FURTHER ORDERED that Debra K. McFadden shall pay a forfeiture of one thousand (\$1000.00) dollars within sixty (60) days from the effective date of this order.

IT IS FURTHER ORDERED that Respondents shall pay costs of the investigation and prosecution of this matter in the amount of five thousand five hundred (\$5,500.00) dollars. The costs shall be due and payable within sixty (60) days from the effective date of this order.


Payment of forfeitures shall be made via certified check or money order payable to the Wisconsin Department of Regulation and Licensing, with a notation as to the complaint number. Proof of continuing education and payment of forfeiture and costs shall be submitted to the Department of Regulation and Licensing and sent to:

Department Monitor, Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935, Madison, WI 53708-8935

**In the event that Respondents fail to timely comply with the terms and conditions set forth above, their respective licenses shall be SUSPENDED, without further notice or hearing, until such time as they have complied with the terms of this Order.**

This Order shall become effective upon the date of its signing.

WISCONSIN REAL ESTATE BOARD

By:   
A Member of the Board

6/26/03  
Date

Forfeitures: \$2,500.00  
Partial Costs: \$5,500.00