

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL A. MCKENZIE AND
MIRROR LAKE REALTY, INC.,
RESPONDENTS.

:
:
: FINAL DECISION AND ORDER
:
:
:

0003483

Division of Legal Services and Compliance¹ Case Nos.
11 REB 107, 12 REB 008, 12 REB 029, 12 REB 077, 12 REB 109

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Michael A. McKenzie
E6585 Giles Rd.
Reedsburg, WI 53959

Mirror Lake Realty, Inc.
P.O. Box 308
Lake Delton, WI 53940-0308

Wisconsin Real Estate Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Real Estate Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Michael A. McKenzie (dob June 7, 1956) is licensed in the State of Wisconsin as a Real Estate Broker, having license number 48395-90, first issued on March 29,

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

1996 and current through December 14, 2014. Respondent McKenzie's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is E6585 Giles Road, Reedsburg, Wisconsin 53959.

2. Respondent Mirror Lake Realty, Inc. (Mirror Lake) is licensed in the State of Wisconsin as a Real Estate Business Entity, having license number 835311-91, first issued on March 16, 2000 and current through December 14, 2014. Respondent Mirror Lake's most recent address on file with the Department is Post Office Box 308, Lake Delton, Wisconsin 53940-0308.

3. At all times relevant to this matter, Respondent McKenzie was the responsible broker of Respondent Mirror Lake.

11 REB 107

4. In 2011, a timeshare salesperson employed by Respondents completed a purchase agreement related to the sale of a timeshare that had not been approved by the Board.

5. The purchase agreement did not include the name of the drafter of the purchase agreement form.

6. Respondents failed to properly supervise the timeshare salesperson in their employ.

12 REB 008

7. In 2011, Respondent McKenzie used a purchase agreement related to the sale of a timeshare that did not include the name of the drafter of the form.

12 REB 029

8. In 2011, a timeshare salesperson employed by Respondents completed a purchase agreement related to the sale of a timeshare that had not been approved by the Board.

9. The purchase agreement did not include the name of the drafter of the purchase agreement form.

10. Respondents failed to properly supervise the timeshare salesperson in their employ.

12 REB 077

11. In 2011, a timeshare salesperson employed by Respondents completed a purchase agreement related to the sale of a timeshare that had not been approved by the Board.

12. The purchase agreement did not include the name of the drafter of the purchase agreement form.

13. Respondents failed to properly supervise the timeshare salesperson in their employ.

12 REB 109

14. In 2009, a timeshare salesperson employed by Respondents completed a purchase agreement related to the sale of a timeshare that had not been approved by the Board.

15. The purchase agreement did not include the name of the drafter of the purchase agreement form.

16. Respondents failed to properly supervise the timeshare salesperson in their employ.

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

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 452.14, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § RL (now REEB) 16.04(2) by failing to include the name of the drafter on a non-approved contractual form.

3. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § RL (now REEB) 17.08(1) and (2) by failing to properly supervise employees.

4. As a result of the above violations, Respondents are subject to discipline pursuant to Wis. Stat. § 452.14(3)(i) and (L) and Wis. Stat. § 452.14(4m)(a).

ORDER

1. The attached Stipulation is accepted.

2. Respondents Michael A. McKenzie and Mirror Lake Realty, Inc. are REPRIMANDED.

3. The Real Estate Broker license issued to Michael A. McKenzie (license number 48395-90) is LIMITED as follows:

a. Within 90 days of the date of this Order, Respondent McKenzie shall successfully complete 6 hours of education on the topics of forms and ethics offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses.

b. Respondent McKenzie shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.

c. This limitation shall be removed from Respondent McKenzie's license and Respondent will be granted a full, unrestricted license after he satisfies the Board or its designee that he has successfully completed all of the ordered education.

4. Within 90 days from the date of this Order, Respondent McKenzie shall pay a FORFEITURE in the amount of \$750.00 and COSTS of this matter in the amount of \$1,037.00.

5. Within 90 days from the date of this Order, Respondent Mirror Lake shall pay a FORFEITURE in the amount of \$750.00 and COSTS of this matter in the amount of \$1,037.00.

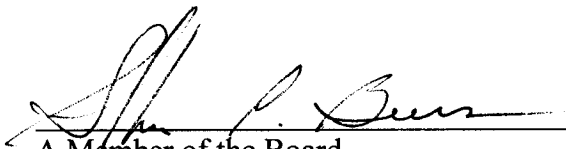
6. Proof of successful course completion and payment of forfeitures and costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent McKenzie to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondents' licenses. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondents fail to timely submit payment of the forfeitures and costs as ordered, Respondents' licenses (nos. 48395-90 and 835311-91) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with payment of the forfeitures and costs. In the event Respondent McKenzie fails to submit proof of successful completion of the ordered education as set forth above, Respondent McKenzie's license (no. 48395-90) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent McKenzie has complied with completion of the education.

8. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE EXAMINING BOARD

by: 
A Member of the Board

10-16-14
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL A. MCKENZIE AND
MIRROR LAKE REALTY, INC.,
RESPONDENTS.

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STIPULATION

0003483

Division of Legal Services and Compliance¹ Case Nos.
11 REB 107, 12 REB 008, 12 REB 029, 12 REB 077, 12 REB 109

Respondents Michael A. McKenzie and Mirror Lake Realty, Inc. and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondents consent to the resolution of this investigation by Stipulation.
2. Respondents understand that by signing this Stipulation, Respondents voluntarily and knowingly waive the following rights:
 - the right to a hearing on the allegations against Respondents, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
 - the right to confront and cross-examine the witnesses against Respondents;
 - the right to call witnesses on Respondents' behalf and to compel their attendance by subpoena;
 - the right to testify on Respondents' own behalf;
 - the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
 - the right to petition for rehearing; and
 - all other applicable rights afforded to Respondents under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Respondents are aware of Respondents' right to seek legal representation and have been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondents are represented by Attorney Jason Gamel.
4. Respondents agree to the adoption of the attached Final Decision and Order by the Wisconsin Real Estate Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

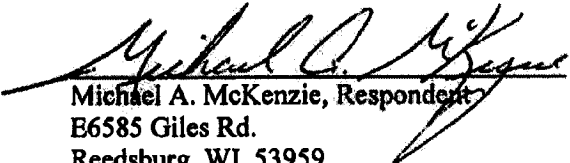
or consent of the parties. Respondents waive all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

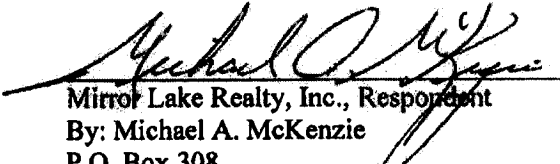
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondents or Respondents' attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondents are informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

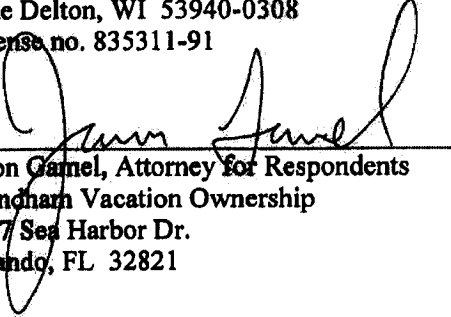
8. The Division of Legal Services and Compliance joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Michael A. McKenzie, Respondent
E6585 Giles Rd.
Reedsburg, WI 53959
License no. 48395-90

10-3-14
Date


Mirror Lake Realty, Inc., Respondent
By: Michael A. McKenzie
P.O. Box 308
Lake Delton, WI 53940-0308
License no. 835311-91

10-3-14
Date


Jason Gamel, Attorney for Respondents
Wynham Vacation Ownership
6277 Sea Harbor Dr.
Orlando, FL 32821

10/3/14
Date

Sarah E. Norberg
Sarah E. Norberg, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

10.5.14
Date