

**FILED**  
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STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
FLORIDA REAL ESTATE APPRAISAL BOARD

2010 DEC 23 A 11:27

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,  
DIVISION OF REAL ESTATE,

Petitioner,  
v.

DBPR CASE NO.: 2007-026077  
DOAH CASE NO.: ~~07-0700PL~~

09-0700PL

FRED R. CATCHPOLE,

Respondent.

FINAL ORDER

THIS CAUSE came before the FLORIDA REAL ESTATE APPRAISAL BOARD (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, at a duly noticed public meeting on October 12, 2010, in Orlando, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, attached and incorporated herein as Exhibit A. Petitioner was represented by Robert Minarcin, Senior Attorney. Fred R. Catchpole was present and represented by Martin A. Pedata, Esquire.

Upon review of the Recommended Order, Petitioner's Exceptions, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions:

RULING ON EXCEPTIONS

The Board reviewed and considered the Petitioner's Exceptions to the Recommended Order and ruled as follows:

1. Petitioner's Exception I is GRANTED based upon the reasons set forth in the exceptions, in that the Administrative Law Judge's finding of fact was not based upon competent substantial evidence.

2. Petitioner's Exception II was withdrawn.

3. Petitioner's Exception III is GRANTED based upon the reasons set forth in the exceptions, in that the Administrative Law Judge's finding of fact was not based upon competent substantial evidence.

4. Petitioner's Exception IV is GRANTED based upon the reasons set forth in the exceptions, in that the modification requested is as reasonable or more reasonable than what had been put forth by the Administrative Law Judge.

5. Petitioner's Exception V is GRANTED based upon the reasons set forth in the exceptions, in that the modification requested is as reasonable or more reasonable than what had been put forth by the Administrative Law Judge.

6. Petitioner's Exception VI is GRANTED based upon the reasons set forth in the exceptions, in that the modification requested is as reasonable or more reasonable than what had been put forth by the Administrative Law Judge.

PRELIMINARY STATEMENT

7. Upon a complete review of the record in this case, Paragraph 20 of the Preliminary Statement of the Recommended Order is corrected to reflect Petitioner's Exhibits numbered 1, 9, 10, and 12 were admitted into evidence.

#### FINDINGS OF FACT

8. The findings of fact set forth in the Recommended Order are approved, excepted as noted below, and adopted and incorporated herein by reference.

9. There is competent, substantial evidence to support the findings of fact found by the Board.

10. Based upon the granting of Exception I, Paragraph 1 of the Findings of Fact of the Recommended Order shall read as follows:

Respondent Fred R. Catchpole became a licensed appraiser in the State of Florida in 1993. In September, 2009, he became a certified residential real estate appraiser in the State of Florida. He is still so licensed.

11. Based upon the granting of Exception III, Paragraph 8 of the Findings of Fact of the Recommended Order shall read as follows:

At all times material hereto, when Respondent has been present at one of his offices, he has maintained communication with the others.

#### CONCLUSIONS OF LAW

12. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 475, Part II, Florida Statutes.

13. The conclusions of law set forth in the Recommended Order are approved, excepted as noted below, and adopted and incorporated herein by reference.

14. There is competent, substantial evidence to support the conclusions of law

adopted by the Board.

15. Based upon a determination that the modification is as reasonable or more reasonable than what had been put forth by the Administrative Law Judge Paragraph 12 of the Conclusions of Law of the Recommended Order shall read as follows:

Petitioner seeks to take disciplinary action against Respondent in this proceeding. The burden of proof, therefore, is on Petitioner, and Petitioner must prove the allegations in its Amended Administrative Complaint by clear and convincing evidence. Dep't of Banking & Finance, Division of Securities & Investor Protection v. Osborne Stern & Co., 670 So. 2d 932 (Fla. 1996).

16. Based upon the granting of Exception IV, Paragraph 15 of the Conclusions of Law of the Recommended Order shall read as follows:

Petitioner has failed to prove Respondent guilty of violating Section 475.6221(1), and, therefore, Section 475.624(4), Florida Statutes, as alleged in Count One. The evidence is clear that Bowermaster's address, according to Petitioner's records, is the same as the location of one of Respondent's offices. Even if it were different, as Woods' address is different, there is no evidence as to whether Bowermaster's address or Woods' address is a business address or a mailing address. Petitioner's computer-screen print-outs admitted in evidence merely reflect an "address" for each of them, and the certifications submitted as evidence by Petitioner specifically say that the addresses given therein are mailing addresses.

17. Based upon the granting of Exception V, Rule 61J1-4.010(5), Florida Administrative Code, and upon a determination that the rejection is as reasonable or more reasonable than what had been put forth by the Administrative Law Judge, Paragraph 18 of the Conclusions of Law of the Recommended Order is rejected in its entirety without substitution.

18. Based upon the granting of Exception VI and upon a determination that the rejection is as reasonable or more reasonable than what had been put forth by the Administrative Law Judge, Paragraph 19 of the Conclusions of Law of the Recommended Order shall read as follows:

If Respondent had a main office with satellite offices, he would be required, pursuant to the Rule, to supervise Bowermaster and Woods in the county where his main office is located or in a contiguous county. The evidence is further uncontroverted that Respondent spends an equal amount of time at each office. In addition, Petitioner has allowed Respondent to register his trainees at the addresses used, and his trainees have been permitted to register in two of the counties where Respondent has offices.

19. Based upon a determination that the rejection is as reasonable or more reasonable than what had been put forth by the Administrative Law Judge, Paragraph 20 of the Conclusions of Law of the Recommended Order is rejected in its entirety without substitution.

20. Based upon a determination that the modification is as reasonable or more reasonable than what had been put forth by the Administrative Law Judge Paragraph 21 of the Conclusions of Law of the Recommended Order shall read as follows:

The clear and convincing evidence in this record is that Bowermaster's address is the same as Respondent's office in Volusia County and that Woods' address is in Hillsborough County as is one of Respondent's offices. However, as Volusia and Hillsborough counties are not contiguous, Respondent cannot be in compliance with Rule 61J1-4.010(5), Florida Administrative Code, and, therefore, is in violation of Section 475.624(4), Florida Statutes, as set forth in Count Two of the Amended Administrative Complaint.

PENALTY

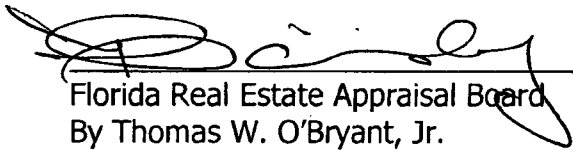
Upon a complete review of the record in this case and, based upon the granted exceptions, modifications, and/or rejections to the findings of facts and conclusions of law, the disposition recommended by the Administrative Law Judge is REJECTED. Count One of the Amended Administrative Complaint is hereby DISMISSED. The violation proven as set forth in Count Two of the Amended Administrative Complaint warrants disciplinary action by the Board.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent shall attend two complete two day Florida Real Estate Appraisal Board meetings from the commencement of the meetings until 5:00 p.m. on both meeting days within 18 months of the filing of this Final Order.
2. Respondent shall pay an administrative fine in the amount of \$2,500.00 by separate check payable to Florida Department of Business and Professional Regulation, Division of Real Estate, Real Estate Appraisal Board at 400 West Robinson Street, Suite 801N, Orlando, Florida 32801-1757, within 18 months of the filing of this Final Order.
3. Respondent shall complete Form DBPR-RE-2065 and ensure it is received by the Florida Department of Business and Professional Regulation, Division of Real Estate, Real Estate Appraisal Board at 400 West Robinson Street, Suite 801N, Orlando, Florida 32801-1757, within 30 days of the filing of this Final Order.

This Final Order shall take effect upon being filed with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 17 day of December, 2010.

  
Florida Real Estate Appraisal Board  
By Thomas W. O'Bryant, Jr.  
Director, Division of Real Estate

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: Fred Catchpole, 5449 Marcia Circle, Jacksonville, FL 32210; Martin A. Pedata, Esquire, 150 Wildwood Road, Deland, FL 32720; and to Linda M. Rigot, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, FL 32399-3060; and by interoffice mail to James Harwood, Chief Attorney, Division of Real Estate, 400 West Robinson Street, Suite 801N, Orlando, Florida 32801, and to Mary Ellen Clark, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; this 22<sup>nd</sup> day of December, 2010.

Brandon M. Nichols