

**STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
FLORIDA REAL ESTATE COMMISSION**

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/23/2018
File #	2018-01339

**VICTOR ROTHAAAR,**

**Petitioner,**

**vs.**

**DOAH Case No. 17-1855**

**FLORIDA REAL ESTATE COMMISSION,**

**Respondent.**

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**FINAL ORDER**

**THIS CAUSE** came before the FLORIDA REAL ESTATE COMMISSION ("Commission") pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on October 18, 2017, in Orlando, Orange County, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order in the above-styled cause. A copy of said Recommended Order is attached hereto and incorporated herein as Exhibit "A". The Respondent timely filed exceptions to the Recommended Order, to which Petitioner filed no response. A copy of said Respondent's Exceptions to the Recommended Order is attached hereto and incorporated herein as Exhibit "B". The Petitioner did not file exceptions to the Recommended Order.

The Commission was represented by Special Counsel Tom Barnhart, Esquire, of Tallahassee, Leon County, Florida. After a review of the complete record in this matter, including consideration of the Administrative Law Judge's Recommended Order, the hearing transcript, the Respondent's Exceptions to the Recommended Order, and the arguments presented, the Commission makes the following findings of fact and conclusions of law:

## **FINDINGS OF FACT**

1. Except as otherwise set forth below, the Administrative Law Judge's findings of fact as set forth in the Exhibit "A" are hereby approved, adopted, and incorporated herein by reference.
2. There is competent, substantial evidence to support the Administrative Law Judge's findings of fact as adopted by the Commission.

## **CONCLUSIONS OF LAW**

3. The Commission has jurisdiction of this matter pursuant to Sections 120.569 and 120.57(1), Florida Statutes, Chapter 475, Part I, Florida Statutes, and Chapter 61J2 of the Florida Administrative Code.
4. Except as otherwise set forth below, the Administrative Law Judge's conclusions of law as set forth in Exhibit "A" are reasonable and are hereby approved, adopted, and incorporated herein by reference.

## **EXCEPTIONS**

5. For the reasons set forth in Exhibit "B", the Commission grants Respondent's Exception Number One and strikes paragraph 31 of the Recommended Order in its entirety.
6. For the reasons set forth in Exhibit "B", the Commission grants Respondent's Exception Number Two and strikes the following language from paragraph 32 of the Recommended Order:
  - a. The phrase "Respondent argued in its Proposed Recommended Order that" in the first sentence;
  - b. The phrases "Respondent argued that" and "and relied upon" in the second sentence; and

c. The last three sentences of the paragraph.

7. For the reasons set forth in Exhibit "B", the Commission grants Respondent's Exception Number Three and makes the following modifications to paragraph 33 of the Recommended Order:

a. The language "However, these letters are of limited value as it relates to moral turpitude and rehabilitation because the authors of the letters had no knowledge of Rothaar's criminal history and they also constitute hearsay that would not be admissible over objection in a civil action." is inserted after the first sentence of paragraph 33.

b. The last two sentences of paragraph 33 are deleted.

8. For the reasons set forth in Exhibit "B", the Commission grants Respondent's Exception Number Four and rewrites paragraph 35 of the Recommended Order to state: "Based on the foregoing, Petition has failed to meet his burden to prove that he is entitled to be licensed as a real estate broker. Therefore, Petitioner's application for licensure as a real estate broker should be denied."

9. The Commission grants Respondent's Exception Number Five and, based on the foregoing, declines to accept the recommendation made by the Administrative Law Judge at the conclusion of the Recommended Order.

[SIGNATURE PAGE FOLLOWS]

**DISPOSITION**

The Administrative Law Judge's Recommendation to grant Petitioner's license application is rejected and the Commission reaffirms its original determination.

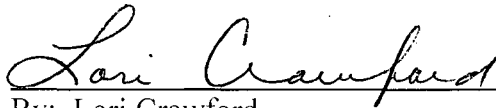
**WHEREFORE**, it is hereby **ORDERED** and **ADJUDGED** that:

Petitioner's license application is **DENIED**.

This Order is effective when filed with the Clerk of the Department of Business and Professional Regulation.

**DONE** and **ORDERED** this 4 day of January, 2018.

**FLORIDA REAL ESTATE COMMISSION**




By: Lori Crawford  
Executive 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 Final Order has been provided by U.S. Mail to Victor Rothaar, 1931 South 350 East, Bountiful, Utah 84010; J. Yolonda Y. Green, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; Joshua N. Kendrick, Chief Attorney, Division of Real Estate, 2601 Blair Stone Road, Tallahassee, Florida 32399-2202; and to Tom Barnhart, Special Counsel, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, on this 23<sup>rd</sup> day of February, ~~2017~~ <sup>2018</sup> 



Office of Agency Clerk