

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
BY THE REAL ESTATE COMMISSION**

In the Matter of	)	
	)	
ADAL RAJA	)	OAH No. 19-0206-REC
	)	Agency No. 2019-000034
_____	)	

**DECISION**

**I. Introduction**

Adal Raja applied for a real estate salesperson’s license. The Real Estate Commission (Commission) denied his application because seven years had not passed since he completed probation for his misdemeanor conviction for attempted fraud. Mr. Raja requested a hearing to challenge the denial of his application.

The Alaska real estate licensing statute, AS 08.88.171(c), contains a time limited bar for real estate salesperson license applicants who have criminal convictions for fraud. Mr. Raja’s criminal conviction for attempted fraud is subject to that same bar. The undisputed facts establish that seven years have not elapsed since he completed probation for his criminal conviction for attempted fraud. Consequently, he is currently barred from being licensed as a real estate salesperson. The denial of his application is upheld.

**II. Facts<sup>1</sup>**

*A. The Application*

Mr. Raja applied for a real estate salesperson license on December 20, 2018.<sup>2</sup> He checked the “Yes” box on the application to the question asking if he had been convicted of a crime. That question explains that the term “crime” applies to both misdemeanors and felonies.<sup>3</sup> Mr. Raja’s application was supported by Keller Williams, a real estate agency.<sup>4</sup> As part of the application process, Mr. Raja provided the Commission with a written explanation of his criminal conviction and copies of his court paperwork.<sup>5</sup>

Mr. Raja’s court documents show that he was charged with originally charged with insurance fraud, a class C felony. As a result of a plea agreement, he pleaded guilty to and was

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<sup>1</sup> The following facts were established by a preponderance of the evidence.  
<sup>2</sup> Agency Record, pp. 16 – 17.  
<sup>3</sup> Agency Record, p. 16.  
<sup>4</sup> Agency Record, pp. 17, 19, 22,  
<sup>5</sup> Agency Record, pp. 22 – 26.

convicted of attempted insurance fraud, a violation of AS 21.36.360(b)(2) and AS 11.31.100(a), a class A misdemeanor, on July 29, 2014. Mr. Raja was represented by a lawyer. Mr. Raja was placed on probation for three years, fined \$250, required to complete 80 hours of community work services, and was also sentenced to 120 days of jail time. All the jail time was suspended.<sup>6</sup>

Mr. Raja's application came before the Commission on January 16 and February 21, 2019. The Commission denied his application due to his prior criminal conviction. Mr. Raja was notified of the denial by correspondence dated February 22, 2019.<sup>7</sup>

*B. The Hearing.*

Mr. Raja requested a hearing to challenge the denial of his application. The hearing was held on May 13, 2019. Mr. Raja represented himself. Lakhdar Osmane and Lamin Jobarteh testified on his behalf. Assistant AG Harriet Milks represented the Division of Corporations, Business and Professional Licensing. Nancy Harris, the project assistant with the Real Estate Commission, testified for the Division.

Mr. Osmane was Mr. Raja's direct supervisor at RAVN Alaska for between 6 to 7 years. He testified that Mr. Raja had been employed until approximately a year before at RAVN Air, where Mr. Raja was a computer technician and database administrator. Mr. Raja had access to all the company files, including confidential data, and he was a trustworthy employee.<sup>8</sup>

Mr. Jobarteh is the president of the Islamic Community Center. He has known Mr. Raja for over 15 years. Mr. Raja is very involved with the Center, where he is an active volunteer. He has keys to the Center and has full access to all its facilities and its computer system. Mr. Jobarteh trusts him completely.<sup>9</sup> Both Mr. Osmane and Mr. Jobarteh were credible witnesses.

Mr. Raja testified regarding his conviction, which was based on his submitting a false claim to an insurance company. He admitted that he had made a mistake and stated that it would not recur. He testified regarding his desire to serve the Muslim community and how working as a real estate salesperson would satisfy an unmet need in that community. He is willing to accept a period of probation, if he is licensed. Mr. Raja appeared at the hearing in person. Based upon an observation of his demeanor and the manner in which he testified and answered questions, he was sincere, straightforward, and credible.<sup>10</sup>

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<sup>6</sup> Agency Record, pp. 28 – 31.

<sup>7</sup> Agency Record, pp. 11 -12, 32 – 36.

<sup>8</sup> Mr. Osmane's testimony.

<sup>9</sup> Mr. Jobarteh's testimony.

<sup>10</sup> Mr. Raja's testimony.

### III. Discussion

Alaska Statute 08.88.171(c) provides that, in addition to other requirements:

a natural person qualifies for a real estate salesperson license if the person . . . is not under indictment for forgery, theft, extortion, conspiracy to defraud creditors, or fraud, or, if convicted of such an offense, seven years have elapsed since the person completed the sentence imposed upon conviction.<sup>11</sup>

Mr. Raja has a July 29, 2014 misdemeanor conviction for attempted insurance fraud. His three-year probation would have been completed at the end of July 2017. If this statute applies to his conviction, he will not be eligible to receive a real estate salesperson license until the end of July 2024.

Mr. Raja did not dispute the fact of his conviction, nor the fact that it is for fraud. Instead, he argued that he is a trustworthy person and that the Commission should exercise its discretion and approve his application. His character witnesses, Mr. Osmane and Mr. Jobarteh, both of whom have known Mr. Raja for years, credibly testified that he is an honest and trustworthy person. In addition, Mr. Raja has the support of Keller Williams, an Anchorage real estate agency, in his application.

AS 11.88.171(c) has been consistently applied by the Commission as proscribing applicants from licensure, who have misdemeanor convictions for theft.<sup>12</sup> Its clear language shows that it also applies to convictions for fraud. In addition, a substantially similar statute, AS 11.88.071(a)(11), has been interpreted to require the revocation of a real estate broker's license<sup>13</sup> and a salesperson's license<sup>14</sup> for misdemeanor fraud convictions.

It must be noted that Mr. Raja does not have a conviction for actual fraud. His conviction is for attempted fraud. However, the underlying basis for both fraud and attempted fraud is the intentional dissemination of false or misleading information. This is demonstrated by the language in the criminal information, to which Mr. Raja pleaded guilty:

Adal K. Raja, with the intent to injure, defraud, or deceive attempted to present to an insurer a written or oral statement in support of a claim for payment or other benefit under an insurance policy, knowing the statement contained false, incomplete, or misleading information.<sup>15</sup>

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<sup>11</sup> AS 08.88.171(c).

<sup>12</sup> *In the Matter of Weber*, OAH Case No. 14-1465-REC (Real Estate Commission 2015).  
*In the Matter of Landau*, OAH Case No. 16-1068-REC (Real Estate Commission 2017).

<sup>13</sup> *In the Matter of Stone*, OAH Case No. 15-0464-REC (Real Estate Commission 2015). *Stone* was appealed to the Superior Court, which upheld the revocation of his license: Superior Court Case No. 3AN-15-10764-Civil (Morse, J, May 27, 2016).

<sup>14</sup> *In the Matter of Cho*, OAH Case No. 14-0940-REC (Real Estate Commission 2015).

<sup>15</sup> *Information Replacing Complaint*, Count I, Agency Record, pp. 28 - 29.

As a result, his conviction for attempted fraud should be, for the purposes of the licensing statute, be treated the same as a conviction for fraud.

Mr. Raja was both sympathetic and credible. There was credible evidence demonstrating his trustworthiness. Regardless, even though his underlying conviction was for only a misdemeanor and may well have been a complete anomaly, an applicant with a misdemeanor conviction for attempted fraud, as with a conviction for fraud, is not eligible for real estate licensure until seven years after his sentence has been completed. “[T]he [licensing] statute does not provide the Commission with any discretion.”<sup>16</sup> The statute also does not allow for a period of probation. It requires that Mr. Raja’s application be denied.

#### **IV. Conclusion**

Mr. Raja is barred from being a real estate salesperson until the end of July 2024. This bar is mandatory, not discretionary, and the Commission is required to deny his application for licensure.

Dated: June 12, 2019

Lawrence A. Pederson  
Administrative Law Judge

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<sup>16</sup> *Weber*, p. 2.

JUL 29 2019

Division of Corporations, Business  
and Professional Licensing

### Adoption

The REAL ESTATE COMMISSION adopts this decision as final under the authority of AS 44.64.060(e)(1). Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of distribution of this decision.

DATED this 25 day of

By: 

Signature

Name

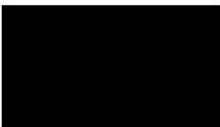
Title

Peggy Ann E. McGonochie  
AREC Chairman

The undersigned certifies that this is a true and correct copy of the original and that on this date an exact copy of the foregoing was provided to the following individuals:

Adal Raja (by mail)

Harriet MILKS, AAG (by e-mail)



Date

8-1-19