

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL BY THE COMMISSIONER OF REVENUE**

In the Matter of:)
)
ALASKA BRANCH OF THE) OAH No. 13-1039-PFC
INTERNATIONAL DYSLEXIA)
ASSOCIATION)
)
2014 PFD Charitable Contribution List)

DECISION AND ORDER

I. Introduction

This case is the appeal of Alaska Branch of the International Dyslexia Association (Dyslexia Association). The Dyslexia Association appealed the denial of its application for participation in the *Pick.Click.Give.* program by the the Permanent Fund Dividend Division (Division). This program allows charities to receive contributions from Permanent Fund Dividend (PFD) applicants through a check-off procedure in the PFD application process. The Division denied Dyslexia Association’s application to participate in the *Pick.Click.Give.* program for the 2014 PFD because Dyslexia Association’s application to be included on the charitable contribution list for the 2014 *Pick.Click.Give.* program was postmarked after March 31, 2013.

Posse Boggs, the president of The Dyslexia Association requested a formal hearing. Administrative Law Judge Mark T. Handley was appointed to decide the appeal. The hearing was held on August 8, 2013. PFD specialist Peter F. Scott represented the Division. The record in this appeal closed at the end of the hearing. Ms. Boggs and the Dyslexia Association’s President Elect, Jennifer Hall Jones, represented the Dyslexia Association at the hearing.

Having reviewed the record, and after due deliberation, the Administrative Law Judge concludes that the Division’s denial of the Dyslexia Association’s application should be affirmed because there is no exception to the requirement that mailed applications be postmarked before the deadline.

II. Facts

The relevant facts in this case are not in dispute. Ms. Boggs completed the online portion of the Dyslexia Association’s. Ms. Boggs did not immediately realize that portions of the application had to be postmarked before the deadline, but she did figure it out before the

deadline.¹ Ms. Boggs took the application to the Anchorage airport post office expecting from her prior experience that it would be open 24 hours per day.² Ms. Boggs delivered the application to the post office at 11:45 PM on March 31, 2013.³ The application was postmarked “MON 01 APR 2013 PM.”⁴

Based on the evidence in the record, I find that Dyslexia Association’s application was postmarked after March 31, 2013.⁵

At the hearing, Ms. Jones explained how important participation in the *Pick.Click.Give*. program is to the finances of Dyslexia Association.⁶ Ms. Boggs explained why she felt that she had made a good faith effort to file the Dyslexia Association’s application on time. Ms. Boggs also pointed out that she would have been able to file on time if the Division had set up the application process to allow online filing.⁷

III. Discussion

Eligible charitable organizations may participate in a program that allows PFD applicants who file electronically to contribute some of their PFD money to the charitable organization.⁸ The Permanent Fund Dividend Division has named this program the “Pick.Click.Give” program.⁹

Alaska statutes allow charitable organizations to participate in *Pick.Click.Give* “only if the organization (1) before March 31 of the qualifying year, files an application for inclusion on the list for that dividend year on the form required by the department.”¹⁰ The regulations governing the *Pick.Click.Give*. program make clear that the department will consider an “organization to have filed an application if that application is complete and timely.”¹¹ The regulations also provide that “an application is (1) timely if is postmarked on or before March 31 of the qualifying year.”¹² Neither the statute nor the regulations provide for an exception to March 31st filing deadline.

¹ Recording of Hearing-Testimony of Ms. Boggs.
² Recording of Hearing-Testimony of Ms. Boggs.
³ Recording of Hearing-Testimony of Ms. Boggs.
⁴ Exhibit 1, page 8.
⁵ Recording of Hearing-Testimony of Ms. Boggs & Exhibit 1, page 8.
⁶ Recording of Hearing-Testimony of Ms. Jones.
⁷ Recording of Hearing-Testimony of Ms. Boggs.
⁸ AS 24.23.062.
⁹ <http://www.pfd.alaska.gov/>
¹⁰ AS 43.23.062(d)(1).
¹¹ 15 AAC 23.310(c).
¹² 15 AAC 23.310(c)(1).

In setting out the requirements for meeting the application deadline, the regulation explicitly uses the term “postmark,” rather than on more ambiguous terms like “filed” or “mailed.” By using the term “postmark,” the regulation is requiring the applicant to ensure that the application receives a postmark stamp with a date before April 1st. Under this regulation, an applicant cannot guarantee compliance merely placing an the application in a mailbox or leaving it at the post office without making sure it is postmarked before the deadline.¹³ To ensure timeliness, the applicant must takes whatever steps are necessary to ensure that the application is, in fact, postmarked or received on time.

IV. Conclusion

The Dyslexia Association’s application was postmarked after the deadline. There is no exception to the requirement that mailed applications be postmarked before the deadline. The Division’s decision is upheld. The Dyslexia Association’s application to participate in the 2014 *Pick.Click.Give.* program is denied. The Dyslexia Association will not be included on the PFD charitable contribution list on the 2014 PFD electronic application.

DATED this 12th day of August, 2013.

By: Signed
Mark T. Handley
Administrative Law Judge

¹³ Cf., e.g., *In re G.W. and M.E.*, OAH No. 07-0605-PFD (Commissioner of Revenue 2007) at 10 (“The proof lies in the postmark. The applicant, not the postal service, bears the ‘responsibility to ensure that an application is timely delivered to the department.’” (citation omitted)).

ADOPTION

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision and Order as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 5th day of September, 2013.

By: Signed
Signature
Mark T. Handley
Name
Administrative Law Judge
Title

[This document has been modified to conform to the technical standards for publication.]