

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

IN THE MATTER OF )  
 )  
D. & S. Y. )  
 )  
 ) Case No. OAH 10-0019-PFD  
2009 Permanent Fund Dividend )

**DECISION**

**I. Introduction**

D. and S. Y. applied for 2009 permanent fund dividends. The Permanent Fund Dividend Division (“the division”) determined that the applicants were not eligible, and it denied the application initially and at the informal appeal level. At the Y.s’ request, a formal hearing was held on February 23, 2010. D. Y. appeared by telephone. PFD Specialist Bethany Chase represented the division by telephone.

Because the Y.s did not file their applications before the end of the application period, they are not eligible for 2009 dividends.

**II. Facts**

Both Mr. and Ms. Y. are long time Alaskans. They have consistently filed applications on time over the years. Ms. Y. has received a dividend every year since 1982, and Mr. Y. has received a dividend every year since 1988.

In 2009, the Y.s waited until the evening of March 31 to complete their online applications. Ms. Y. attempted to apply online, but had trouble accessing the division’s website. As the midnight deadline approached, Ms. Y. sent an email to the division stating that

I was trying to apply online on the deadline date today and was having issues. I have now filled out a paper application for my husband and myself, I just wanted to notify someone. I will plan to bring it by the Anchorage PFD office first thing in the morning. Thank you for your assistance with my application.

Ms. Y. sent this message before midnight, but apparently because it was in a queue the division’s copy of the email indicates that it was sent at 2:05 a.m. on April 1, 2009.<sup>1</sup> Ms. Y. did bring in paper applications to the Anchorage dividend information office for both her and Mr. Y. on April 1, 2009. Neither Mr. Y. nor Ms. Y. are disabled, and neither of them were in the armed forces during the application period.

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<sup>1</sup> Exhibit 3, page 5.

### III. Discussion

The first requirement for PFD eligibility is that individuals must apply to the Department of Revenue.<sup>2</sup> Applications must be filed during the period that begins January 1 and ends March 31 of the dividend year.<sup>3</sup> The legislature has allowed exceptions to the filing deadline only for certain military personnel in combat situations,<sup>4</sup> for certain children when their parents or guardians failed to apply for them,<sup>5</sup> and for certain disabled individuals.<sup>6</sup>

According to 15 Alaska Administrative Code 23.103(g),

It is an individual's responsibility to ensure that an application is timely delivered to the department. A paper application must be timely delivered to the department during normal business hours or delivered to the post office in sufficient time to be postmarked before the end of the application period. The department will deny a paper application postmarked after the application period, unless the individual provides the department with an official statement from the United States Postal Service or a foreign postal service that describes the specific circumstances under which the postal service incorrectly posted the individual's application or caused a delay in posting.

In spite of the fact that the Y.s are Alaska residents and have been consistently qualifying for dividends for many years, the law does not provide an exception to the requirement for timely filing that would apply to this case. Unfortunately in this case, there is no provision in the law that allows for consideration of any applicable unique circumstances. Mr. and Ms. Y. did not ensure that their applications were timely delivered to the department during the 2009 application period.

### IV. Conclusion

Mr. and Ms. Y. did not file their applications for 2009 permanent fund dividends before the end of the 2009 application period. Because the division was correctly following the law when it made the decision to deny the applications of D. and S. Y. for 2009 permanent fund dividends, the decision is AFFIRMED.

DATED this 25<sup>th</sup> day of February, 2010.

By: Signed \_\_\_\_\_  
DALE WHITNEY  
Administrative Law Judge

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<sup>2</sup> AS 43.23.005(a)(1).

<sup>3</sup> AS 43.23.011.

<sup>4</sup> AS 43.23.011(b)-(c).

<sup>5</sup> AS 43.23.055(3).

<sup>6</sup> AS 43.23.055(8).

### 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 26<sup>th</sup> day of March, 2010.

By: Signed  
Signature  
Dale Whitney  
Name  
Administrative Law Judge  
Title

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