

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

IN THE MATTER OF	)	
C N	)	OAH No. 14-0636-PFD
	)	Agency No. 2013-047-9711
<u>2013 Permanent Fund Dividend</u>	)	

**DECISION & ORDER**

**I. Introduction**

C N applied for a 2013 permanent fund dividend (PFD). The Permanent Fund Dividend Division (Division) determined that Ms. N was not eligible, and it denied the application initially and at the informal appeal level. Ms. N requested a formal hearing by correspondence.

Administrative Law Judge Mark T. Handley reviewed the appeal. Pete F. Scott represented the Division and had submitted a position paper. The administrative law judge finds the Division correctly denied Ms. N’s 2013 PFD application.

**II. Facts**

C N indicated on her 2013 permanent fund dividend application that she was present in Alaska when she filed it.<sup>1</sup> Ms. N does not dispute the Division’s assertion that this answer was incorrect.

The instructions on the electronic application that Ms. N filed on March 12, 2013 directed her to mark either “yes” or “no” in answer to the question: “Are you present in Alaska today?”<sup>2</sup> Ms. N answered question by marking “Yes” on the application. There is no dispute that she was filing on-line from Arizona when she provided this answer.<sup>3</sup> There is also no dispute that she was absent more than 90-days in 2012, but she claimed that she had not been absent more than 90 days on her 2013 PFD application.

Ms. N did not clearly explain why she answered these questions incorrectly. In her request for an informal appeal, she wrote that she “was not sure,” how to put her absence dates on her PFD application.<sup>4</sup> After she was questioned about her absent dates, she wrote under penalty of unsworn falsification that she had been absent from January 1, 2012 to March 31, 2012, and from November

---

<sup>1</sup> Exhibit 1.

<sup>2</sup> Exhibit 1, page 1.

<sup>3</sup> At Exhibit 6, pages 4 & 5, there are airlines records Ms. N provided showing that she left Alaska on October 25, 2012 and did not return until March 25, 2012, with handwritten notes with which she confirms she was absent these dates, which include her date of application.

<sup>4</sup> Exhibit 4, page 2.

11, 2012 to December 30, 2012.<sup>5</sup> On her request for an informal appeal she wrote under penalty of unsworn falsification that she had been absent from January 1, 2012 to April 3, 2012, and from October 1, 2012 to December 31, 2012.<sup>6</sup>

Based on the evidence in the record, I conclude that it is more likely than not that Ms. N provided intentionally deceptive information on her 2013 PFD application by claiming she was present in Alaska when she filed her 2013 PFD application.<sup>7</sup>

### **III. Discussion**

In a PFD hearing, the person who filed the appeal, in this case Ms. N, has the burden of proving by a preponderance of the evidence that the Division's order is incorrect.<sup>8</sup> In her appeal, Ms. N merely admitted that the Division's findings were true and explained that she did file information showing her air travel that the division requested late but believed she was eligible.<sup>9</sup>

The eligibility requirements for a 2013 PFD disqualify those who provide intentionally deceptive information on their PFD applications.

#### **Alaska Regulation 15 AAC 23.103. Application generally**

\* \* \*

(j) The department will deny an application if the department determines that an individual has intentionally provided deceptive information such as failing to disclose a reportable absence to the department....

Ms. N's responses to the Division's questions about her absence are surprisingly inconsistent but consistently evasive and self-serving. Ms. N's explanation that her claims to be "present in Alaska today" on a day that she was in Arizona and that she had not been absent more than 90 days in 2012 when her absence totaled more than four months is not credible. Ms. N provided intentionally deceptive information on her PFD application. She may have done this because she wished to apply on-line and avoid answering more questions about her absence. Regardless of her motivation, having provided intentionally deceptive information on her 2013 PFD application, she is disqualified.

---

<sup>5</sup> Exhibit 2, page 2.

<sup>6</sup> Exhibit 4, page 2 & 3.

<sup>7</sup> Exhibits 1, 2, 3 & 6.

<sup>8</sup> Alaska Regulation 15 AAC 05.030(h).

<sup>9</sup> Exhibit 6, page 2.

**IV. Conclusion**

Ms. N is not eligible for a 2013 permanent fund dividend because she provided intentionally deceptive information on her 2013 PFD application. The division’s denial of the application of C N for a 2013 permanent fund dividend is upheld.

DATED this 26<sup>th</sup> day of June, 2014.

By: *Signed* \_\_\_\_\_  
Mark T. Handley  
Administrative Law Judge

**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 22<sup>nd</sup> day of July, 2014.

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

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