BEFORE THE STATE OF ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL BY THE UNIVERSITY OF ALASKA

In the Matter of:)	
)	
DT)	
)	OAH No. 07-0514-PFE

DECISION

I. Introduction

The University of Alaska claimed D T's Alaska Permanent Fund dividend. Ms. T filed an appeal, which was referred to the Office of Administrative Hearings. The assigned administrative law judge conducted a telephonic hearing on September 14, 2007. Amanda K. Eklund represented the university. The administrative law judge called Ms. T's telephone number of record, but there was no answer. Ms. T has not subsequently contacted the Office of Administrative Hearings.

Because the evidence on record supports the university's claim, and Ms. T has not shown grounds for denial of the claim, the appeal is denied.

II. Facts

During the registration period for the fall 2006 semester, D T registered for four classes totaling ten credits at the University of Alaska.¹ She did not withdraw from any of the courses by September 11, 2006.² On November 20, 2006, the instructor for Ms. T's mathematics class dropped her from the course.³ As of August 6, 2007, the unpaid total charges for the courses she had registered for, including fees and tuition, including late fees, was \$1,669.00.⁴

Under the university's published policies, as set out in the school catalogue for the 2006-2007 school year, a student is "financially responsible for all courses for which they register." However, a student who withdrew from a course no later than September 1, 2006, was entitled to

Ex. 1. The University's position statement asserts that registration occurred on April 10 and July 23, 2006, for all of the courses, but Exhibit 1 does not include a registration date for one of the courses, Math A055. Since the registration was successful, however, it must have been during the registration period.

² *Id*.

³ *Id*.

⁴ Ex. 2, Ex. 5.

⁵ Ex. 3.

a 100% refund of all tuition and fees; withdrawal no later than September 11 entitled the student to a 50% refund.⁶

On May 11, 2007, the university notified Ms. T that her account was in default in the amount of \$1,669.00 for tuition, fees, and other charges.⁷ The notice informed Ms. T that she could appeal the notice of default and request a hearing by contacting the university's chief financial officer.⁸ Ms. T did not appeal or request a hearing on the notice of default.

On June 25, 2007, the university notified Ms. T that it had filed a claim against her Alaska Permanent Fund dividend. Ms. T requested a hearing on the claim against her dividend, and on August 8, 2007, the matter was referred to the Office of Administrative Hearings. 10

III. Discussion

Alaska law provides that tuition, fees and other charges owed by an individual to the University of Alaska are in default if not paid within 180 days. ¹¹ Upon default, the university may take the individual's Alaska Permanent Fund dividend. ¹² An individual may appeal a notice of default by requesting review by the university's chief financial officer within 30 days. ¹³ If review is requested, the university's chief financial officer's decision is a final decision that may be appealed to the superior court. ¹⁴

If an individual does not request review of the notice of default, the university may claim the individual's Alaska Permanent Fund dividend in satisfaction of the amount indicated in the notice of default.¹⁵ Upon a timely request, the individual is entitled to a hearing before the Office of Administrative Hearings on the claim against the dividend.¹⁶ The hearing is subject to the Administrative Procedure Act, AS 44.62.330-.630.¹⁷ At the hearing, the individual must show that (1) the university did not provide notice of the default; (2) the university rescinded the notice

⁶ Ex. 4. Whether Ms. T was provided a copy of Exhibit 4 prior to the deadlines for withdrawal has not been established.

⁷ Ex. 7.

⁸ *Id*.

⁹ Ex. 8.

Ex. 9, Case Referral Notice.

AS 14.40.251(a).

¹² *Id*.

AS 14.40.251(c).

¹⁴ *Id*.

¹⁵ AS 43.23.073(a)(3).

AS 43.23.073(c); AS 44.64.030(a)(30).

AS 43.23.073(c).

of default; or (3) "the amount owed by the individual is less than the amount claimed from the permanent fund dividend." ¹⁸

Ms. T's notice of defense asserts that the university did not provide a notice of default, and that the amount due is less than the amount claimed.¹⁹

Ms. T has not provided any evidence to support her assertions, and the university has submitted evidence, as noted in the preceding section of this decision, of both the notice of default and the amount of the claim.

IV. Conclusion

Because Ms. T failed to participate in the scheduled telephonic hearing, the university's claim may be affirmed if supported by the evidence in the record.²⁰ The university submitted evidence sufficient to support its claim, and Ms. T failed to meet her burden of proof that a notice of default was not served or that the amount owed is less than the amount claimed. For these reasons, the university is entitled to claim a maximum of \$1,669.00 against one or more of Ms. T's Alaska Permanent Fund dividends until the claim is satisfied by collection from a dividend or otherwise.

DATED December 31, 2007. <u>Signed</u>
Andrew M. Hemenway

Administrative Law Judge

Adoption

The undersigned, on behalf of the University of Alaska 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 11th day of February, 2008.

By: Signed
Signature
Fran Ulmer
Name
Chancellor
Title

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

AS 43.23.073(c)(1)-(3).

¹⁹ Ex. 9.

²⁰ AS 44.62.530; 2 AAC 64.320(a).