

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
FROM THE UNIVERSITY OF ALASKA**

IN THE MATTER OF)
)
D. K.) OAH No. 09-0479-PFE
_____)

DECISION

I. Introduction

D. K. submitted a Notice of Defense challenging the University of Alaska, Fairbanks' (the University) claim against her future permanent fund dividends (PFDs).¹ At the October 7, 2009 Case Planning Conference the parties agreed to a hearing date of October 14, 2009 at 1:00 p.m. Ms. K. was called at the number she provided at the appointed time and she was not available. The hearing proceeded in her absence with the University participating by phone. Because Ms. K. has not shown that the University's claim is for more than the amount due, her appeal is denied. The University is entitled to claim a maximum of \$3,335 against Ms. K.'s future PFDs until the claim is satisfied.²

II. Facts

Ms. K. completed and signed the University's In-Person Registration Form (Form) for the 2008 spring semester on December 14, 2007, registering for Modern World History (three credits), Developmental Math Elementary Algebra (three credits), and Developmental English (one credit).³ On the form directly above Ms. K.'s signature in italics and bold lettering it reads "***I understand I am responsible for all applicable UAF academic regulations, tuition and fees whether or not I successfully complete the course or courses in which I am enrolling.***"⁴ Ms. K.'s tuition and fees totaled \$3,135.⁵

The University's 2008 spring term classes began on January 24, 2008. February 1, 2008 was the deadline for a full refund of tuition and fees to students who withdraw. Fifty percent refunds of tuition only were allowed for students who withdrew by February 8, 2008. These

¹ Exhibit 9.

² The University originally sought an order directing Ms. K. to file for future PFDs. The University has since withdrawn this request. *See* Motion Withdrawing Request, dated October 20, 2009.

³ Exhibit 1.

⁴ Exhibit 1 (emphasis in original).

⁵ Exhibits 2, 3. Ms. K. was charged nonresident tuition because she failed to complete an Application for Resident Tuition and provide the required documentation. *See* Exhibit 1.

dates were published in the University's academic calendar.⁶ Ms. K. never attended the classes nor did she withdraw from the classes. Late fees were assessed increasing the total amount due by \$200 to \$3,335.⁷

A Notice of Default dated May 12, 2009 was sent to Ms. K.⁸ No response was filed nor was an appeal requested. A Notice of Intent to Collect PFD Claim dated June 23, 2009 was sent to Ms. K. Ms. K. responded and filed a Notice of Defense requesting a hearing. In support of her appeal she explained that the amount owed is less than the amount claimed because she never intended to register for classes, rather, she was merely inquiring about the cost of classes. Ms. K. offers that the "information must have been mixed up..."⁹

III. Discussion

Alaska law provides that tuition, fees and other charges owed by an individual to the University in default if not paid within 180 days.¹⁰ When an individual is in default to the University, the University is allowed to take the individual's PFD.¹¹ Once the University has provided proper notification of its claim against the individual's PFD, the individual has the burden of refuting the University's claim.¹² The individual may do this by showing one of only three things: (1) the University did not send a notice of default in compliance with the law, (2) the notice of default has been rescinded, or (3) the amount owed by the individual is less than the amount claimed from the PFD.¹³ Ms. K.'s Notice of Defense claimed the third, that the University did not have the legal authority to garnish her PFD because she never registered for classes and therefore cannot be in debt to University.

Ms. K. signed the form. This she does not dispute. The form is clearly designated for in-person registration. Ms. K. signed the form immediately below the caution informing the signor that they were subject to the University's published policies and procedures governing withdrawal and refunds regardless of whether the individual completes the course for which they registered. By signing and submitting the form she registered for the classes indicated on the form and agreed to be subject to the University's published policies and

⁶ Exhibit 3 at 3.

⁷ Exhibit 4.

⁸ Exhibit 7.

⁹ Exhibit 9.

¹⁰ AS 14.40.251(a).

¹¹ AS 14.43.251(a); AS 43.23.073.

¹² AS 43.23.073(c).

¹³ *Id.*

procedures. The University's policies impose responsibility for full payment upon registration subject to timely withdrawal. Ms. K. did not withdraw. Therefore she should be liable for the full amount of the claim.

IV. Conclusion

D. K. failed to meet her burden of proof that the amount owed is less than the amount claimed. The University of Alaska is entitled to claim a maximum of \$3,335 against one or more of Ms. K.'s Alaska Permanent Fund Dividends until the claim is satisfied by collection from dividend or otherwise.

DATED this 30th day of October, 2009.

By: Signed
Rebecca L. Pauli
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 2nd day of December, 2009.

By: Signed
Signature
Brian Rogers
Name
Chancellor
Title

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