

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS  
ON REFERRAL BY THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION**

IN THE MATTER OF )  
 )  
A. S. ) Case No. OAH-09-0533-PFE  
\_\_\_\_\_ ) ACPE Case No. 0183886149

**DECISION**

**I. Introduction**

The appellant, A. S., appeals a claim on her permanent fund dividend (PFD) by the Alaska Commission on Postsecondary Education (“the commission”). Administrative Law Judge Dale Whitney heard the appeal on November 12, 2009. Stephanie Butler represented the ACPE by telephone. Ms. S. did not appear at the hearing.

Ms. S. has not met her burden of proving that the ACPE failed to send a notice of default in compliance with the law, that the notice of default had been rescinded, or that the amount owed was less than the amount taken from the PFD.

**II. Facts**

The commission has claimed Ms. S.’s 2009 permanent fund dividend for application against a defaulted Alaska Education Loan. The appeal form that the commission had sent to Ms. S. contained three bases for appeal with a check box for each paragraph. The three reasons listed for appeal of a claim on a PFD are:

- ACPE has not sent a Notice of Initial Default (notice that my loan(s) is 180 days or more past due) to my address of record at the time of default, as required by Alaska Statute 14.43.145(b);
- The Notice of Default has been rescinded by ACPE after review under Alaska Statute 14.43.145(c) (attach copy of rescission notice); or
- The amount ACPE claimed from my Alaska PFD is greater than the full accelerated unpaid balance on my loan(s).

These paragraphs are followed by a blank space for “additional information.”

Ms. S. checked all three boxes on the form. In the space for additional information Ms. S. wrote, “I do not understand. They said they sent me a bill but sent it to the State of Idaho. Why I don’t know.” Ms. S. did not provide any additional evidence.

The commission asserts that Ms. S. owed principal of \$2,643.25 as of September 8, 2009, along with interest of \$642.90. The commission asserts that it properly sent notices of default, and that it did not rescind the notices.

### III. Discussion

By law, the commission is allowed to take a student loan borrower's PFD when the loan is in default.<sup>1</sup> When the commission makes a claim against a PFD, it must provide the borrower with an opportunity for a hearing on the claim, but the grounds on which the borrower can challenge the claim are limited to just three:

1. the commission did not send a notice of default in compliance with the law;
2. the notice of default has been rescinded;
3. "the amount owed by the borrower is less than the amount claimed from the permanent fund dividend."<sup>2</sup>

At a hearing, the borrower has the burden of proving one of these three elements.<sup>3</sup> Ms. S. has not provided any evidence at all, and there are no facially apparent errors in the commission's action. Under these circumstances, it cannot be said that Ms. S. has met her burden of proof.

### IV. Conclusion

Ms. S. has not met her burden of proving that the commission did not send a notice of default in compliance with the law, that the notice of default has been rescinded, or that the amount she owed was less than the amount claimed from her permanent fund dividend. The Alaska Commission on Postsecondary Education is entitled to maintain the claim on Ms. S.'s permanent fund dividends.

DATED this 13th day of November, 2009.

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

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<sup>1</sup> AS 14.43.145(a)(2); AS 43.23.067.

<sup>2</sup> AS 43.23.067(c).

<sup>3</sup> *Id.*

## Adoption

The undersigned, on behalf of the Alaska Commission on Post Secondary Education 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 23rd day of December, 2009.

By: Signed  
Signature  
Diane Barrans  
Name  
Executive Director  
Title

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