

S. questioned why would she sign up for classes only to come back an hour later to sign up for another semester? She believes it is more likely that she would have signed up for all classes at the same time. She also offered that she did not know fall semester was open for registration in April 2006.⁵ Finally, Ms. S. offered that she would not have signed up for fall classes because she was planning on moving out of state in the fall.

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.⁶ When an individual is in default to the University, the University is allowed to take the individual's PFD.⁷ 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.⁸ 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(1) the University did not send a notice of default in compliance with the law, (2) the notice of default has been rescinded, or (3) the amount owed by the individual is less than the amount claimed from the PFD.⁹ Ms. S. argues the third, that she owes less than the amount claimed by the University.¹⁰

As the moving party, Ms. S. has the burden of establishing her defense by a preponderance of the evidence.¹¹ She does this by pointing to evidence in the record or adding evidence to the record that will establish that it is more likely than not that she does not owe the University for the Fall 2006 classes on her account.

The evidence added by Ms. S. is her own testimony that she did not sign up for the classes. Ms. S. offers a supposition of what may have happened. However explanations, no matter how rational, are insufficient to overcome the unchallenged evidence presented by the University – that account activity under Ms. S.'s unique PIN resulted in registration for two fall classes on her account. Ms. S. has not established that another person had access to her PIN.

The University presented evidence that in April 2006, the online registration system had a time out feature. However, the duration of access prior to the time out was never established

⁵ S. Testimony.

⁶ AS 14.40.251(a).

⁷ AS 14.43.251(a); AS 43.23.073.

⁸ AS 43.23.073(c).

⁹ *Id.*

¹⁰ Exh. 1.

¹¹ AS 44.62.460(e).

with sufficient certainty.¹² Even if the time out feature required an hour and a half of inactivity and, as she supposes, her roommate signed her up for classes, it would be insufficient to relieve Ms. S. of her obligation to pay for classes appearing on her account accessed using her unique identification under the evidence and arguments presented.

IV. Conclusion

E. S. 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 \$1,989 for tuition and fees accrued for the fall 2006 semester against one or more of Ms. S.'s Alaska Permanent Fund Dividends until the claim is satisfied by collection from dividend or otherwise.

DATED this 20th day of September, 2010.

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 20th day of October, 2010.

By: Signed
Signature
Fran Ulmer
Name
Chancellor
Title

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

¹² The University presented the testimony of Ms. Farmer who attempted to narrow down the time of inactivity on a person's account before it would "time out." Ms. Farmer's had personal knowledge of the feature and therefore her testimony was sufficient to establish the existence of the feature, but because she had no personal knowledge of the period of inactivity required in April 2006 to trigger the time out feature, Ms. Farmer's testimony that she believed it to be 15 minutes is insufficient to establish that as a fact.