

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

In the Matter of the)
)
 T P. G)
_____)

OAH No. 13-1264-PFE
Agency No. 5621263346

DECISION

I. Introduction

The Alaska Commission on Postsecondary Education (ACPE) claimed Ms. G' 2013 permanent fund dividend (PFD). Ms. G appealed by submitting a Notice of Defense and requesting a hearing. A hearing was held on November 22, 2013. Ms. G testified on her own behalf. ACPE's lay representative Faith Guthert testified for ACPE. Because the amount due on her loan was greater than the amount of the PFD, ACPE's decision to take Ms. G' PFD is affirmed.

II. Facts

Ms. G received a student loan in 2005.¹ She made payments on her loan, but fell behind on those payments when she lost her job and had trouble finding other permanent employment.² A notice of default was mailed on February 4, 2013.³ In August of 2013, the total outstanding principal and interest due was \$2,835.58.⁴

III. Discussion

ACPE is allowed to take a student loan borrower's PFD when the loan is in default.⁵ Once ACPE has provided proper notification, the borrower has the burden of refuting ACPE's claim.⁶ The borrower may do this by showing one of only three things: (1) ACPE did not send a notice of default in compliance with the law, (2) the notice of default has been rescinded, or (3) the amount owed by the individual is less than the amount claimed from the PFD.⁷ Ms. G asserted the third reason as the basis for her appeal.

Ms. G' loan may not have been default in February when the notice was sent. This is because it was only 180 days past due on February 4, 2013,⁸ and according to the terms of Ms.

¹ Exhibit A to Motion for Summary Adjudication.

² Testimony of Ms. G.

³ Affidavit attached to Motion for Summary Adjudication.

⁴ Testimony of Ms. Guthert; affidavit attached to Motion for Summary Adjudication.

⁵ AS 14.43.145(a); AS 43.23.067.

⁶ AS 43.23.067(c).

⁷ *Id.*

⁸ Motion for Summary Adjudication, page 2.

G' loan contract, her loan did not go into default until it was 270 days past due.⁹ However, there is no dispute that a notice of default was issued. Any claim that the notice was premature should have been made within thirty days of that notice.¹⁰ Ms. G did not appeal the default notice, so she has waived any right to dispute that her loan is in default status.

Once the default occurred, the entire amount of the loan principal and accrued interest became due.¹¹ Ms. G was uncertain of the precise amount she owed when her PFD was taken. Regardless, Ms. G agreed that the amount owed was greater than \$900, which is the amount of the PFD. Since the amount owed on the loan is greater than the amount of the PFD, ACPE could properly take her PFD.

IV. Conclusion

Ms. G owed more than \$900 on her defaulted student loan. Accordingly, the Alaska Commission on Postsecondary Education could properly take her PFD, and its decision of doing so is upheld.

DATED this 28th day of Novmember, 2013.

Signed _____
Jeffrey A. Friedman
Administrative Law Judge

⁹ Exhibit A 2.

¹⁰ AS 14.43.145(c).

¹¹ Exhibit A 2.

Adoption

The undersigned, by delegation from of the Alaska Commission on Postsecondary Education, adopts this Decision, under the authority of AS 44.64.060(e)(1), 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 6th day of January, 2014.

By: Signed
Name: Diane Barrans
Title: Executive Director

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