

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
BY THE COMMISSIONER OF REVENUE**

|   |   |   |
|---|---|---|
| In the Matter of                        | ) |   |
|   | ) |   |
| F T & K-M K- C, B T, L D & N T (minors) | ) | OAH No. 18-0803-PFD                               |
|   | ) | Agency Nos. 2018-003-2322/2349/<br>2417/2432/2452 |
| _____                                   | ) |   |

**DECISION**

**I. Introduction**

F T appeals the denial of the 2018 Permanent Fund Dividends (PFD) for her and her four children: K M C, B T, L D, and N T. The denials occurred on April 13, 2018 and were subsequently upheld in the informal appeal process offered by the PFD division.<sup>1</sup>

Mrs. T requested a Formal Hearing by written correspondence on July 18, 2018. With her request, Mrs. T provided two incomplete lease agreements to establish residency in Alaska, and an undated form headed “To End Lease” as support of residency in Alaska until February 2018.<sup>2</sup> Those documents are included in the record.

The Division submitted a position statement and Exhibits 1-13. The Exhibits are admitted without objection from Mrs. T.

The Division’s denials of the PFDs are affirmed because Mrs. T intentionally misled the Department of Revenue when she provided false information about where she and her children were located at the time of applying for her PFD.

**II. Facts**

F T filed for PFDs for her and her four children on January 2, 2018.<sup>3</sup> Her four children were all born in Alaska and received PFDs until the most recent denial.<sup>4</sup> Mrs. T filed electronic applications for her and her children. The applications she signed each read that the signer acknowledges providing false information in the application is a crime.<sup>5</sup>

Question 2 of the online application asks, “Are you physically present in Alaska today?” It is accompanied by a special warning that reads:

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<sup>1</sup> Exhibit 4.  
<sup>2</sup> Exhibit 8.  
<sup>3</sup> Exhibit 1.  
<sup>4</sup> Exhibit 12.  
<sup>5</sup> Exhibit 12 page 1.

Answer **No** if you are completing this application from someplace other than within Alaska. Failure to disclose a reportable absence constitutes fraud.<sup>6</sup>

Mrs. T checked “Yes” to in response to this question for each family member, indicating that each was present in Alaska the time of filing.<sup>7</sup> Mrs. T identified 0000 No Name Ave., Apt 1, Alaska, as her and her children’s mailing and physical address.<sup>8</sup> On February 2, 2018, Mrs. T certified with her signature that the information contained in the application all five of the applications she submitted electronically on January 2, 2018, was true and correct.<sup>9</sup>

Mrs. T’s and her children’s applications were audited as a result of information obtained by third party eligibility analytics.<sup>10</sup> Mrs. T was advised that their applications would be denied, unless she provided acceptable proof that 1) she and her children were physically present in Alaska on January 2, 2018; 2) an explanation of why she had answered yes to being in Alaska when the application was filed from a device outside Alaska; 3) any additional dates of absence not included in her original application from December 31, 2016 to the response date of the letter, and 4) if she wasn’t in Alaska, to fill out the audit form.<sup>11</sup>

On March 12, 2018, Mrs. T spoke by phone to a PFD Division representative; Mrs. T said she and her family were on vacation in Florida and decided to move.<sup>12</sup>

On March 24, 2018, Mrs. T’s wrote in response to the Division’s audit, that “we left [A]laska to move to a new location. We currently [live] in [F]lorida. That’s why our PFD was file in [F]lorida.”<sup>13</sup> She also wrote she “maybe accidentally” clicked she was in Alaska but that she left Alaska on October 31, 2017 with the intention of moving.<sup>14</sup>

On April 13, 2018, Mrs. T family’s 2018 PFD Applications were denied because she “was absent when the application was filed” and “left Alaska on October 31, 2017 and moved.”<sup>15</sup>

That same day, Mrs. T submitted a Request for Informal Appeal.<sup>16</sup> In this, she wrote she was a resident of Alaska for 2017; she wrote, “on October 31, I went on vacation and then

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<sup>6</sup> Exhibit 13.  
<sup>7</sup> Exhibit 1.  
<sup>8</sup> Exhibit 1; Exhibit 3; Exhibit 9.  
<sup>9</sup> Exhibit 1 pages 6-10.  
<sup>10</sup> Exhibit 2.  
<sup>11</sup> Exhibit 2.  
<sup>12</sup> Exhibit 7.  
<sup>13</sup> Exhibit 3.  
<sup>14</sup> Exhibit 3.  
<sup>15</sup> Exhibit 4.  
<sup>16</sup> Exhibit 6.

decided to stay in Florida.”<sup>17</sup> She also asserted her children were residents of Alaska because two were homeschooled in Alaska and the family received Food Stamps and Medicaid.<sup>18</sup>

On July 10, 2018, Mrs. T’s informal appeal was denied because she intentionally, recklessly or negligently provided false information of her and her children’s applications, did not meet residency requirements, and failed to provide necessary documentation.<sup>19</sup>

### **III. Discussion**

Mrs. T has the burden, by preponderance of the evidence, that she and her children were eligible for their 2018 PFD.

It is important to the integrity of the PFD program that answers given on PFD applications are accurate. The application asks about current location and about absences totaling more than 90 days so that the PFD Division can evaluate circumstances that may affect residence or eligibility. Those who do not report their location, interfere with the Division’s ability to perform this task.<sup>20</sup>

The PFD Division will deny an application if it is determined an individual intentionally provided deceptive information, such as failing to disclose reportable absences to the Division.<sup>21</sup> Here, Mrs. T, and her children left Alaska on October 31, 2017.<sup>22</sup> She and her children were not physically in Alaska at the time she applied.<sup>23</sup> However, on the five applications she submitted, she listed a residence in Alaska and represented on those five applications that she and her children were present in Alaska at the time of application. They were not.<sup>24</sup>

In law, when one gives false information because of reckless indifference to the truth, it is intentional misrepresentation.<sup>25</sup> Mrs. T claims in her original written statement that she “maybe accidentally click currently in Alaska but am not,”<sup>26</sup> but it seems unlikely to accidently make the same false statement five times. Further, the conflicting information she provided subsequently with her appeal, is unpersuasive in overcoming her burden to provide a credible explanation of her original false submission.

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<sup>17</sup> Exhibit 6.

<sup>18</sup> Exhibit 6.

<sup>19</sup> Exhibit 7.

<sup>20</sup> See *In the matter of ME & CM.*, OAH No. 13-1625 PFD (Dept. of Revenue 2013)

<sup>21</sup> 15 AAC 23.103 (j)

<sup>22</sup> Exhibit 1; Exhibit 3.

<sup>23</sup> Mrs. T testimony.

<sup>24</sup> Exhibit 8.

<sup>25</sup> See, e.g., *Jones v. Koons Automotive Inc.*, 752 F Supp.2d 670, 686 (D. Md. 2010).

<sup>26</sup> Exhibit 3.

Mrs. T and her children might have been eligible for their PFDs even being out of the State at the time of applying of the PFD. At the time of application, Mrs. T and her children just needed to be truthful in her application. However, because of her false statement regarding their location on her initial applications, residency and permissible absences do not need to be explored further.

**IV. Conclusion**

Mrs. T did not provide any credible evidence explaining why she provided false information about where she and her children were located at the time of applying for her PFD. She supplemented her explanation with conflicting information after being discovered in Florida. Mrs. T did not provide evidence to support that she and her children are entitled to the 2018 PFD. The denial is affirmed.

Dated: September 27, 2018

*Signed* \_\_\_\_\_  
Hanna Sebold  
Administrative Law Judge

**Adoption**

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision 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 24<sup>th</sup> day of October, 2018.

By: *Signed* \_\_\_\_\_  
Signature  
Hanna Sebold \_\_\_\_\_  
Name  
Administrative Law Judge \_\_\_\_\_  
Title

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]