

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

IN THE MATTER OF: )

M. L. M. )

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OAH No. 09-0500-CSS

CSSD No. 001159611

**DECISION AND ORDER**

**I. Introduction**

This matter involves an appeal by the custodian, D. Z., of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. M.'s child support case on August 18, 2009.

The formal hearing was held on October 8, 2009. Ms. Z. participated by telephone. Mr. M. did not participate.<sup>1</sup> Erinn Brian, Child Support Specialist, represented CSSD. The hearing was recorded; the record closed on October 8, 2009.

Based on the record and after careful consideration, CSSD's August 18, 2009, Decision on Nondisclosure of Identifying Information is reversed. Ms. Z.'s contact information may not be released.

**II. Facts**

In a recent application for public assistance, Ms. Z. requested nondisclosure of her contact information. On July 14, 2009, CSSD sent her a blank affidavit form to fill out and return in order to make a specific request for nondisclosure of her contact information.<sup>2</sup> Ms. Z. did not respond to CSSD's request for information, so on August 18, 2009, CSSD issued a Decision on Nondisclosure of Identifying Information that ordered the disclosure of her contact information.<sup>3</sup> Ms. Z. appealed CSSD's decision on September 9, 2009, asserting she had placed the child for adoption and that Mr. M. had been harassing her.<sup>4</sup>

**III. Discussion**

This matter does not involve Mr. M.'s child support obligation. Rather, the issue here is whether CSSD correctly decided to disclose Ms. Z.'s contact information to him.

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<sup>1</sup> Telephone calls were placed to Mr. M.'s two contact numbers of record before the hearing, but he did not answer.

<sup>2</sup> Pre-hearing brief at pg. 1.

<sup>3</sup> Exh. 1.

<sup>4</sup> Exh. 2.

Alaska Statute (AS) 25.27.275 authorizes CSSD to decide on an *ex parte* basis that a case party's identifying information will not be disclosed to another case party. The applicable statute governing this action states as follows in its entirety:

Upon a finding, which may be made *ex parte*, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the party or child or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter. A person aggrieved by an order of nondisclosure issued under this section that is based on an *ex parte* finding is entitled on request to a formal hearing, within 30 days of when the order was issued, at which the person may contest the order.<sup>[5]</sup>

This proceeding involves only the issue whether Ms. Z.'s contact information kept on file by CSSD should be released. The scope of the inquiry in nondisclosure cases is very narrow and is limited simply to a determination whether CSSD reasonably decided to disclose or not disclose the information. The person requesting the hearing, in this case, Ms. Z., has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.<sup>6</sup>

At the formal hearing, Ms. Z. testified that Mr. M. had been harassing her about her decision to put the child up for adoption. She supplied copies of several email messages he had sent her as evidence of the claimed harassment.<sup>7</sup> Most of the messages from Mr. M. were benign enough, but in one of them he appeared to be angry about her decision concerning the child's adoption.<sup>8</sup> Ms. Z. added that the last email message she had received from Mr. M. was on September 23, 2009, and she read it into the record.

Mr. M. obviously knows how to contact Ms. Z. because he has her email address. He also knows she is currently involved in the J. C. program in the Matanuska-Susitna Valley, but according to her prehearing statement, Mr. M. is not allowed on campus. Ms. Z. is afraid of having personal contact with the obligor that she believes would result if he were given her specific address information. She asserted Mr. M. can contact her through the attorneys handling the adoption litigation.

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<sup>5</sup> AS 25.27.275.  
<sup>6</sup> 15 AAC 05.030(h).  
<sup>7</sup> Exh. 2 at pgs. 3-7.  
<sup>8</sup> Exh. 2 at pg. 7.

At the close of the formal hearing, CSSD requested that its decision to release Ms. Z.'s contact information be affirmed, asserting there is no evidence in the record that indicates its decision should be reversed.

The legislature has given CSSD the authority to determine whether a party may have access to another party's contact information. Based on the evidence as a whole, it now appears that "the health, safety, or liberty of a party or child" would *unreasonably* be put at risk by information disclosure in this case. Ms. Z. has made a decision to put the parties' child up for adoption, a decision with which Mr. M. obviously disagrees. Ms. Z. testified that he cannot prevent the adoption because he has abandoned the child and there is no corroborating evidence in the record. In light of the upcoming adoption of the parties' child and the angry tone of Mr. M.'s email to Ms. Z., release of her contact information would be unreasonable. CSSD's decision allowing disclosure should be reversed.

#### **IV. Conclusion**

Ms. Z. proved by a preponderance of the evidence that CSSD's Decision on Nondisclosure of Identifying Information was incorrect in allowing her contact information to be released. CSSD's decision allowing disclosure should be reversed.

#### **THEREFORE IT IS ORDERED:**

- CSSD's August 18, 2009, Decision on Nondisclosure of Identifying Information is REVERSED;
- Ms. Z.'s contact information may not be released.

DATED this 13th day of October, 2009.

By: Signed \_\_\_\_\_  
Kay L. Howard  
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 and Order as the final administrative determination in this matter.

Under AS 25.27.062 and AS 25.27.250, the obligor's income and property are subject to withholding. Without further notice, a withholding order may be served on any person, political subdivision, department of the State, or other entity.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 25.27.210 and Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 30th day of October, 2009.

By: Signed  
Signature  
Kay L. Howard  
Name  
Administrative Law Judge  
Title

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