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May 2015

## Kenneth Fisher vs. Safety

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**State of Tennessee**  
**Department of State**  
Administrative Procedures Division  
312 Rosa L. Parks Avenue  
8<sup>th</sup> Floor, William R. Snodgrass Tower  
Nashville, Tennessee 37243-1102  
Phone: (615) 741-7008/Fax: (615) 741-4472

May 7, 2015

Commissioner Bill Gibbons  
Tennessee Department of Safety  
23<sup>rd</sup> Floor, William R. Snodgrass Tower  
312 Rosa L. Parks Avenue  
Nashville, Tennessee 37243-1102

Kenneth Fisher  
1513 Rosedale Avenue  
Nashville, TN 37207

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Staff Attorney  
Tennessee Department of Safety  
and Homeland Security  
Division of Legal Services  
1150 Foster Avenue  
McCord Building, Room #107  
Nashville, TN 37249-1000

RE: In the Matter of: Kenneth Fisher (Q2842)

Docket No. 19.01-131071J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division  
Tennessee Department of State

/aem  
Enclosure

**BEFORE THE COMMISSIONER OF THE TENNESSEE  
DEPARTMENT OF SAFETY**

**IN THE MATTER OF:**

**KENNETH FISHER**

**DOCKET NO. 19.01-131071J**

**NOTICE**

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **May 22, 2015**.

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION  
WILLIAM R. SNODGRASS TOWER  
312 ROSA PARKS AVENUE, 8<sup>th</sup> FLOOR  
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472**. PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

**BEFORE THE COMMISSIONER OF THE  
TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

IN THE MATTER OF:	)	
	)	
TENNESSEE DEPARTMENT OF	)	
SAFETY & HOMELAND SECURITY	)	
	)	DOCKET NO. 19.01-131071J
v.	)	[D.O.S. CASE NO. Q2842]
	)	
One 2008 BMW 50L	)	
VIN No.: WBAHN83528DT84861	)	
Seized from: Kenneth Fisher	)	
Date of Seizure: October 8, 2014	)	
Claimant: Kenneth Fisher	)	
Lienholder: N/A	)	
	)	

**NOTICE OF DEFAULT;**

**INITIAL ORDER**

The hearing in this matter was held on May 5, 2015 in Nashville, Tennessee, before Mattielyn B. Williams, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, sitting for the Commissioner of the Tennessee Department of Safety and Homeland Security. Ms. Karen Litwin, Staff Attorney III, Tennessee Department of Safety & Homeland Security, represented the State. Claimant Kenneth Fisher is representing himself. Claimant Fisher did not appear for the hearing.

Claimant Fisher had not moved that the hearing be continued.

The subject of the hearing was the proposed forfeiture of the seized vehicle for its alleged use in transporting, in facilitating, for having been obtained in an

exchange, as constituting proceeds or as otherwise involved in an exchange, in violation of the Tennessee Drug Control Act, thus making the property subject to seizure and forfeiture, pursuant to T.C.A. §53-11-451.

The State moved that the Claimant be held in default for failure to appear at the hearing. The USPS tracking showed that the Claimant's copy of the Notice of Hearing was delivered on April 8, 2015 and signed for by Darla McHenley.

It was **DETERMINED** that the State made a reasonable and adequate effort to provide Claimant notice of the date, time, and location of the hearing. The State's Motion for Default was **GRANTED**.

#### **NOTICE OF DEFAULT**

NOTICE IS HEREBY GIVEN THE CLAIMANT THAT THE CLAIMANT HAS BEEN HELD IN DEFAULT FOR THE CLAIMANT'S FAILURE TO APPEAR AT A HEARING ON THE MERITS AFTER RECEIVING ADEQUATE NOTICE. T.C.A. §4-5-309. CLAIMANT HAS FIFTEEN (15) DAYS FROM THE EFFECTIVE DATE OF THIS ORDER TO REQUEST THAT THIS FINDING OF DEFAULT BE SET ASIDE. THIS REQUEST MUST BE RECEIVED IN THE OFFICE OF THE SECRETARY OF STATE, ADMINISTRATIVE PROCEDURES DIVISION, SUITE 800, WILLIAM R. SNODGRASS BUILDING, 312 ROSA L. PARKS AVENUE, NASHVILLE, TENNESSEE 37243, WITHIN THAT 15-DAY PERIOD. THE

REQUEST TO HAVE THE FINDING OF DEFAULT SET ASIDE SHOULD INCLUDE THE REASONS TO JUSTIFY THE CLAIMANT'S FAILURE TO ATTEND. IF SUFFICIENT REASONS ARE GIVEN, THE ORDER MAY BE SET ASIDE AND A NEW HEARING SCHEDULED. IF THE CLAIMANT DOES NOT REQUEST THE DEFAULT TO BE SET ASIDE OR OTHERWISE APPEAL THE ACCOMPANYING INITIAL ORDER, THEN THE INITIAL ORDER WILL BECOME A FINAL ORDER SUBJECT TO COURT REVIEW. ANY QUESTIONS REGARDING THIS NOTICE OF DEFAULT OR THE STEPS NECESSARY TO HAVE IT SET ASIDE SHOULD BE SUBMITTED TO THE ADMINISTRATIVE JUDGE SIGNING THIS ORDER BY LETTER OR BY TELEPHONING (615) 741-4469.

Claimant may move to have the Default Set Aside within fifteen (15) days, for good cause shown.

### **ORDER**


The State moved that the claim of Kenneth Fisher be struck for failure to appear. The State's Motion to Strike Claimant Fisher's claim was **GRANTED**.

The State also moved that Claimant Fisher's interest, if any, in the subject vehicle, be struck. The State's Motion to Strike Claimant Fisher's interest was **GRANTED**.


The State advised that there were no other claims pending for the return of the seized vehicle.

Therefore, it is hereby **ORDERED** that the seized vehicle is hereby **FORFEITED** to the seizing agency, for disposition as provided by law, free from the claim and/or interest of Claimant Kenneth Fisher.

This Initial Order entered and effective this 17<sup>th</sup> day of May, 2015.

  
\_\_\_\_\_  
Mattielyn B. Williams  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State this 17<sup>th</sup> day of May, 2015.

  
\_\_\_\_\_  
J. Richard Collier, Director  
Administrative Procedures Division

**APPENDIX A TO INITIAL ORDER**  
**NOTICE OF APPEAL PROCEDURES**

**Review of Initial Order**

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8<sup>th</sup> Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

**Review of Final Order**

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

**YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER**

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.