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July 2015

Alexander Bernstein vs. Safety

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

July 21, 2015

Commissioner Bill Gibbons
Tennessee Department of Safety
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Division of Legal Services
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Nashville, TN 37249-1000

RE: In the Matter of: Alexander Bernstein (Q4096)

Docket No. 19.01-131884J

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:

ALEXANDER BERNSTEIN

DOCKET NO. 19.01-131884J

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 **August 5, 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, 8th 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)	
)	
v.)	DOCKET NO. 19.01-131884J
)	[D.O.S. CASE NO. Q4096]
)	
One Hundred Twenty-Eight Thousand)	
Three Hundred (\$128,300.00) Dollars in)	
U.S. Currency)	
Seized from: Alexander Bernstein)	
Date of Seizure: November 20, 2014)	
Claimant: Alexander Bernstein)	
Lienholder: N/A)	
)	

INITIAL ORDER OF DISMISSAL

The hearing in this matter was set to be held on July 28, 2015 in Cookeville, 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, Tennessee Department of Safety & Homeland Security, represents the State. Claimant Alexander Bernstein is represented by Attorneys Jacky O. Bellar and Jamie D. Winkler.

The State filed a Motion for Standing on June 26, 2015. Claimant filed his Response on July 7, 2015. Through counsel, not through an Affidavit, Claimant asserts a possessory interest in the seized funds because the funds were obtained

from Claimant's luggage. Mere possession of the funds is not sufficient, in and of itself, to confer standing to contest a forfeiture.

Claimant does not explain and show how and when the currency was acquired. Claimant does not assert that the funds were acquired in good faith. Claimant does not assert that at no time did Claimant have knowledge or reason to believe that the funds would be used in violation of the laws concerning narcotic drugs or marijuana.


Claimant provides no reasonable basis for Claimant to be carrying well over one hundred thousand dollars in cash.

Based on the above, it is **CONCLUDED** that the Claimant has failed to meet his burden of proof as to standing. Therefore, Claimant's Petition for return of the seized currency should be and is hereby **DISMISSED**.

With there being no other claims for its return, it is hereby **ORDERED** that the seized currency is **FORFEITED** to the seizing agency.

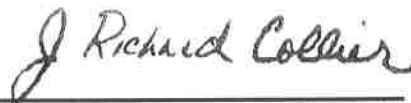
This Order is issued as an Initial Order, with appeal rights, since it is dispositive of the matter.

This Initial Order entered and effective this 21ST day of July, 2015.



Mattilyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, Office of the
Secretary of State, this 21st day of July 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, 8th 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.