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April 2016

## Eboni Feliciano 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

April 6, 2016

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

TMX Finan of Texas, Inc.  
4541 Forest Cane  
Garland, TX 75150

Eboni Feliciano  
1400 Jasper Drive  
Mesquite, TX 75181

André J. Thomas, Esq.  
Staff Attorney III  
Tennessee Department of Safety &  
Homeland Security  
Legal Division  
6174 Macon Avenue  
Memphis, TN 38134-7502

RE: In the Matter of: Eboni Feliciano (Q8870)

Docket No. 19.05-136550J

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:**

**EBONI FELICIANO**

**DOCKET NO. 19.05-136550J**

**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 **April 21, 2016.**

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. 19.05-136550J
	)	[D.O.S. CASE NO. Q8870]
v.	)	
	)	
One 2008 Dodge Charger	)	
VIN No.:2B3KA43R38H150040	)	
Seized from: Levance Mays	)	
Date of Seizure: April 4, 2015	)	
Claimant: Eboni Feliciano	)	
Lienholder: TMX Finan of Texas, Inc.	)	
	)	

**NOTICE OF DEFAULT;  
INITIAL ORDER**

A show cause hearing was held in this matter on March 16, 2016, in Memphis, 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. Mr. Andre Thomas, Staff Attorney III, Tennessee Department of Safety and Homeland Security, represented the State. Claimant Eboni Feliciano has been representing herself. Claimant did not appear for the hearing.

The Claimant had not moved that the hearing be continued. No attorney appeared on Claimant's behalf.

Lienholder TMX Finan of Texas, Inc. did not file timely to protect its interest in the subject vehicle.

The State moved that the Claimant be held in default. Exhibit 1, a copy of the US Postal Service's report, shows that the USPS delivered Claimant's copy of the Notice of Hearing on February 18, 2016.

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 Claimant and the State entered into an Order of Compromise and Settlement, dated October 21, 2015. Pursuant to that agreement, Claimant was supposed to retrieve the subject vehicle within thirty (30) days and make certain financial payments. When Claimant failed to retrieve the subject vehicle and fulfill the financial agreement, the State set the instant show cause hearing for the Claimant to come in and explain why the agreement had not been kept.

The subject 2008 Dodge Charger was seized by the Shelby County Sheriff's Department, for its alleged operation by an individual, Levance Mays, who was driving on a revoked license, pursuant to Tennessee Code Annotated §55-50-504.

Exhibit 2 was a certified copy of Levance Mays' driving record. It showed that Levance Mays' driver's license was currently revoked for a DUI offense of January 7, 2012, with a conviction date of August 23, 2012.


The State moved that the claim of Eboni Feliciano be struck, for failure to appear and come forward to present evidence. The State's Motion to Strike Claimant Eboni Feliciano's claim was **GRANTED**.

The State also moved that Claimant Feliciano's interest, if any, in the subject vehicle be struck. The State's Motion to Strike Claimant Eboni Feliciano'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 2008 Dodge Charger is **FORFEITED** to the seizing agency, for disposition as provided by law, free from the claim and/or interest of Claimant Eboni Feliciano.

This Initial Order entered and effective this 6<sup>TH</sup> day of April, 2016.

  
Mattielyn B. Williams  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of  
State this 6<sup>th</sup> day of April, 2016.

*J. Richard Collier*

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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.