



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

September 19, 2022

Eric Rogers, Esq.
Tennessee Dept. of Financial Institutions
312 Rosa L. Parks Ave.
Tennessee Tower, 26th Floor
Nashville, TN 37243

Mark Kilpatrick, Esq.
Tennessee Dept. of Financial Institutions
312 Rosa L. Parks Ave.
Tennessee Tower, 26th Floor
Nashville, TN 37243

Garrett Stansbery
2725 Green River Drive
Columbus, OH 43228

Garrett Stansbery
66E Short Street
Wilmington, OH 45177

Garrett Stansbery
977 Xenia Ave., Apt. J
Wilmington, OH 45177

RE: TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS V. GARRETT STANSBERY, APD Case No. 03.06-215129J

Enclosed is an *Initial Order*, including a *Notice of Appeal Procedures*, rendered in this case.

Administrative Procedures Division
Tennessee Department of State

Enclosure(s)

**BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS**

IN THE MATTER OF:

GARRETT STANSBERY,
Petitioner,

v.

**TENNESSEE DEPARTMENT OF
FINANCIAL INSTITUTIONS,**
Respondent.

APD Case No. 03.06-215129J

INITIAL ORDER of DISMISSAL

This matter has come before Administrative Law Judge Kim Summers pursuant to the Motion to Dismiss filed by the Respondent on August 26, 2022. To date, no response to the Motion has been filed by the Petitioner who has been representing himself. The Respondent has been represented by Mark Kilpatrick, Esq. and Eric Rogers, Esq.

The basis of the Motion is the Petitioner's failure to appear or participate in this appeal which was requested by written submission to the Respondent in December of 2019. As indicated in the Motion, since the filing of the Notice of Hearing, the Petitioner has not responded to any overtures or initiated any contact with the Department regarding this appeal. The Respondent has made diligent efforts to locate the Petitioner and update his contact information.


In light of the Petitioner's absence from these proceedings for nearly 3 years, it can be reasonably concluded that he has abandoned his right to appeal. Since, absent his participation, the Petitioner cannot satisfy his burden of proof, he is properly held in default, and this matter is properly dismissed pursuant to Tenn. Code Ann. § 4-5-309(a)¹.

¹ If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative judge...may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.

Accordingly, the Respondent's Motion to Dismiss is well-taken, and this matter is hereby **DISMISSED**.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **19th day of September, 2022**.



D. KIM SUMMERS
ADMINISTRATIVE JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the **19th day of September, 2022**.

NOTICE OF APPEAL PROCEDURES

REVIEW OF INITIAL ORDER

The Administrative Judge's decision in your case (**COMMISSIONER**), called an Initial Order, was entered on **September 19, 2022**. The Initial Order is not a Final Order but shall become a Final Order unless:

1. **A Party Files a Petition for Reconsideration of the Initial Order:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration with the Administrative Procedures Division (APD). A Petition for Reconsideration should include your name and the above APD case number and should state the specific reasons why you think the decision is incorrect. APD must **receive** your written Petition no later than 15 days after entry of the Initial Order, which is no later than **October 4, 2022**. A new 15 day period for the filing of an appeal to the **COMMISSIONER** (as set forth in paragraph (2), below) starts to run from the entry date of an order ruling on a Petition for Reconsideration, or from the twentieth day after filing of the Petition if no order is issued. Filing instructions are included at the end of this document.

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied, you may file an Appeal, which must be **received** by APD no later than 15 days after the date of denial of the Petition. *See* TENN. CODE ANN. §§ 4-5-317 and 4-5-322.

2. **A Party Files an Appeal of the Initial Order:** You may appeal the decision to the **COMMISSIONER** by filing an Appeal of the Initial Order with APD. An Appeal of the Initial Order should include your name and the above APD case number and state that you want to appeal the decision to the **COMMISSIONER**, along with the specific reasons for your appeal. APD must **receive** your written Appeal no later than 15 days after the entry of the Initial Order, which is no later than **October 4, 2022**. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.
3. **The COMMISSIONER decides to Review the Initial Order:** In addition, the **COMMISSIONER** may give written notice of the intent to review the Initial Order, within 15 days after the entry of the Initial Order.

If either of the actions set forth in paragraphs (2) or (3) above occurs prior to the Initial Order becoming a Final Order, there is no Final Order until the **COMMISSIONER** renders a Final Order.

If none of the actions in paragraphs (1), (2), or (3) above are taken, then the Initial Order will become a Final Order. **In that event, YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER.**

STAY

In addition, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Initial Order. A Petition for Stay must be **received** by APD within 7 days of the date of entry of the Initial Order, which is no later than **September 26, 2022**. *See* TENN. CODE ANN. § 4-5-316. A reviewing court also may order a stay of the Final Order upon appropriate terms. *See* TENN. CODE ANN. §§ 4-5-322 and 4-5-317.

NOTICE OF APPEAL PROCEDURES

REVIEW OF A FINAL ORDER

When an Initial Order becomes a Final Order, a person who is aggrieved by a Final Order in a contested case may seek judicial review of the Final Order by filing a Petition for Review “in the Chancery Court nearest to the place of residence of the person contesting the agency action or alternatively, at the person’s discretion, in the chancery court nearest to the place where the cause of action arose, or in the Chancery Court of Davidson County,” within 60 days of the date the Initial Order becomes a Final Order. *See* TENN. CODE ANN. § 4-5-322. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.

FILING

Documents should be filed with the Administrative Procedures Division by email *or* fax:

Email: APD.Filings@tn.gov

Fax: 615-741-4472

In the event you do not have access to email or fax, you may mail or deliver documents to:

Secretary of State
Administrative Procedures Division
William R. Snodgrass Tower
312 Rosa L. Parks Avenue, 8th Floor
Nashville, TN 37243-1102