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2-8-2010

Alicia J4139 Williams 1973 Buick Electra V.I.N.
4V39T3H574256, Seized From: Johnny Jackson,
Date of Seizure: May 12, 2009, Claimant: Alicia
Williams, Lienholder: N/A

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

IN THE MATTER OF:

**Alicia (J4139) Williams
1973 Buick Electra
V.I.N. 4V39T3H574256
Seized From: Johnny Jackson
Date of Seizure: May 12, 2009
Claimant: Alicia Williams
Lienholder: N/A**

DOCKET NO: 19.01-106490J

INITIAL DEFAULT ORDER

This matter was heard in Nashville, Tennessee, on February 8, 2010, before Joyce Carter-Ball, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Orvil Orr, Staff Attorney for the Department of Safety, represented the Seizing Agency.

This hearing was convened to consider the proposed forfeiture of the subject property pursuant to T.C.A. §53-11-201 et seq and 40-33-201 et seq.

The Claimant did not appear at the hearing, either in person or through legal counsel. The State therefore moved for an initial default and dismissal of the case. The motion was granted based upon the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Claimant was sent notice of the hearing by certified mail at her address of record.

2. The Claimant failed to appear on the day of the hearing.
3. The State's witnesses were available and ready to go forward to prove its case.

CONCLUSIONS OF LAW AND ANALYSIS

1. Department of Safety Rule 1340-2-2-.17(1) provides, in relevant part:
 - (d) No default shall be entered against a claimant for failure to attend except upon proof, by the filing of the return receipt card, that the Legal Division has given notice of hearing.
 - (e) Upon default by a party, an administrative judge may enter either an initial default order or an order for an uncontested proceeding.

2. Department of Safety Rule 1340-2-2-.17(2) states, in relevant part:

Upon a default by a claimant, a claimant's claim shall be stricken by initial default order.

3. The State's motion for default being granted, it is therefore **ordered** that the Claimant's **claim is stricken from the record**. The claim being stricken, it is as if no claim had ever been filed, which constructively evokes T.C.A. §40-33-206(c). That section states: "If a claim . . . is not filed with the applicable agency within the time specified . . . the seized property shall be forfeited and disposed of as provided by law."

Accordingly, IT IS HEREBY ORDERED that the seized property is **forfeited to the Seizing Agency**.

This Initial Order entered and effective this 18th day of February, 2010.

Joyce Carter-Ball
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 18th day of February, 2010.



Thomas G. Stovall, Director
Administrative Procedures Division