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7-28-2009

TENNESSEE DEPARTMENT OF SAFETY vs.  
\$50,500.00 in U.S. Currency, SEIZED FROM:  
Diallo Barnes, DATE OF SEIZURE: 7/15/08  
CLAIMANT: Diallo Barnes, SEIZING AGENCY:  
10th JDDTF, LIENHOLDER: None Filed

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

**IN THE MATTER OF:**

**TENNESSEE DEPARTMENT  
OF SAFETY**

vs.

**\$50,500.00 in U.S. Currency**

**SEIZED FROM: Diallo Barnes**

**DATE OF SEIZURE: 7/15/08**

**CLAIMANT: Diallo Barnes**

**SEIZING AGENCY: 10<sup>th</sup> JDDTF**

**LIENHOLDER: None Filed**

**DOCKET NO: 19.01-103925J**

**DOS Case # H5416**

**INITIAL DEFAULT ORDER**

This matter was heard in Chattanooga, Tennessee, on July 28, 2009, before J. Randall LaFavor, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Ms. Lori Long, 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, §55-10-401, §55-50-504 and/or §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. [See Hearing Exhibit #1, establishing proper notice or reasonable efforts.]
2. The Claimant failed to appear on the day of the hearing. Nor did an attorney appear on the Claimant's behalf.
3. The State's witnesses were available and ready to proceed with the hearing.

**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 hereby stricken**. 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 Claimant’s interest in the subject property is forfeited to the Seizing Agency, the 10<sup>th</sup> Judicial District Drug Task Force.

This Initial Order entered and effective this 11th day of August, 2009.

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J. Randall LaFevor, Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 11th day of August, 2009.



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Thomas G. Stovall, Director  
Administrative Procedures Division