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Tony Swann vs. Safety

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**BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

IN THE MATTER OF:)
)
DEPARTMENT OF SAFETY &)
HOMELAND SECURITY)
)
v.)
)
One 2006 Chevrolet Truck)
VIN: 1GCEC14X96Z297512)
Seized From: JOHNNY STALLARD)
Seizure Date: 3/26/13)
Claimant: TONY SWANN)

DOCKET NO. 19.01-123640J
(Case No. N7184)

ORDER OF DEFAULT

This matter was scheduled to be heard on November 13, 2013, before Thomas G. Stovall, Administrative Judge, sitting for the Commissioner of the Tennessee Department of Safety and Homeland Security (Department) in Fall Branch, Tennessee. Ms. Angela Jones, Staff Attorney, represented the Department. The Claimant, Tony Swann, was not present nor was an attorney present on his behalf.

The subject of this hearing was the proposed forfeiture of the subject property. The matter was heard upon the Department’s Motion to be granted an Initial Default Order due to the Claimant’s failure to appear at the hearing after receiving proper notice thereof. After consideration of the record it is determined that the Department’s Motion is proper and should be **GRANTED**. It is further **ORDERED** that the subject property should be **FORFEITED** to the seizing agency. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The subject of this hearing was the seizure of a 2006 Chevrolet Truck from Johnny Stallard by the Hawkins County Sheriff’s Department on March 26, 2013. The Claimant Tony Swann filed a petition for the return of the vehicle.

2. Neither the Claimant nor his counsel appeared at the hearing. The notice of hearing was mailed to the Claimant’s address but was returned as undeliverable.

3. The Department’s witnesses were present and the Department was prepared to proceed with the hearing.

CONCLUSIONS OF LAW

1. Department of Safety Rule 1340-2-2-.17(1) provides in 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 the 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. It appearing that the Department made all reasonable attempts to provide notice of the hearing to the Claimant and he failed to appear, it is determined that the Department has complied with the requirements of the above referenced Rule.

3. Accordingly, it is determined that the Department’s motion should be **GRANTED** and the Claimant be held in **DEFAULT**. It is further **ORDERED** that the subject property be **FORFEITED** to the seizing agency.

This Initial Order entered and effective this ____ day of _____, 2013.

Thomas G. Stovall
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this ____ day of _____, 2013.

J. Richard Collier, Director
Administrative Procedures Division