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Alex Byers vs. Safety

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

IN THE MATTER OF:

**TENNESSEE DEPARTMENT OF
SAFETY AND HOMELAND
SECURITY**

**DOCKET NO: 19.01-125213J
(D.O.S. Case No. N6275)**

v.

**One 2005 Chevrolet Silverado
VIN NO.: 2GCEK13T051367939
Seized From: Alex Byers
Date of Seizure: March 12, 2013
Claimant: Alex Byers
Lien Holder: N/A**

INITIAL DEFAULT ORDER

This matter was heard in Memphis, Tennessee, on March 18, 2014, before Rob Wilson, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Andre Thomas, Staff Attorney for the Department of Safety, represented the State. Daniel J. Mickiewicz, Esq., represented the Claimant.

The subject of this hearing was the proposed forfeiture of the subject property for its alleged use in violation of T.C.A. §53-11-201 et seq. and §40-33-201 et seq.

Alex Byers, Claimant, did not appear at the hearing, but his Counsel appeared and requested that a default order be entered on behalf of his client. The motion was **granted** at Claimant's Counsel's request.

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 Claimant's motion for default being granted, it is therefore **ordered** that Claimant's **claim be 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, the 2005 Chevrolet Silverado is hereby forfeited to the seizing agency.

This Initial Order entered and effective this _____ day of _____ 2014.

Rob Wilson

Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this _____ day of _____ 2014.

Handwritten signature of J. Richard Collier in cursive script.

J. Richard Collier, Director
Administrative Procedures Division