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Travis B. Grady F2875TENNESSEE
DEPARTMENT OF SAFETY vs. One 1993
Nissan 240 SXVIN NO.: JN1MS34P8PW308094,
Seized From: Travis Grady, Date of Seizure: May
15, 2006, Claimant: Community Bank of the
Cumberlands, Lien Holder: Community Bank of
the Cumberlands

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

IN THE MATTER OF:

**Travis B. Grady (F2875) TENNESSEE
DEPARTMENT OF SAFETY**

**DOCKET NO: 19.01-094178J
(D.O.S. Case No. F2875)**

v.

**One 1993 Nissan 240 SX
VIN NO.: JN1MS34P8PW308094
Seized From: Travis Grady
Date of Seizure: May 15, 2006
Claimant: Community Bank of the
Cumberlands
Lien Holder: Community Bank of the
Cumberlands**

INITIAL DEFAULT ORDER

This matter was heard in Nashville, Tennessee, on December 13, 2006, before Robert M. Wilson, 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 State.

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.

A representative of Community Bank of the Cumberlands, Claimant, did not appear at the hearing. 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. Claimant was sent notice of the hearing by certified mail at his address of record. A copy of the postal green card shows Reba Holtsmon signed for the notice on behalf of Elaine Chaffin on November 14, 2006.
2. Claimant failed to appear on the day of the hearing. Nor did an attorney appear on Claimant's behalf.
3. The State had its witnesses available and was 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 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.”

It is hereby **ORDERED** that the 1993 Nissan 240 SX is forfeited to the Cookeville Police Department.

This Initial Order entered and effective this 15th day of December, 2006.

Robert M. Wilson
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 15th day of December, 2006.


Charles C. Sullivan, II, Director
Administrative Procedures Division