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4-21-2011

DEPARTMENT OF SAFETY vs. One 2004
Chevrolet Impala VIN : 2G1WF52E949140583,
Date of Seizure: 10/15/10, Seized From: Gary
Walls, Lienholder: Capital One

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

IN THE MATTER OF:)	
)	
DEPARTMENT OF SAFETY)	
)	
v.)	DOCKET NO. 19.01-112258J
)	DOS Case No. K9334
One 2004 Chevrolet Impala)	
VIN : 2G1WF52E949140583)	
Date of Seizure: 10/15/10)	
Seized From: Gary Walls)	
Lienholder: Capital One)	

ORDER

This matter was heard on April 21, 2011, before Marion P. Wall, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Mr. Andre Thomas, Staff Attorney for the Department of Safety, represented the State. The lienholder was not present, nor was counsel present on its behalf.

This vehicle was originally forfeited, subject to the lien of the lienholder. This Order provided that the property would be forfeited if lienholder failed pick up the vehicle or make other arrangements within thirty days of the Order. The lienholder has failed to do either.

This hearing was to allow Claimant to appear and show cause why the property should not be forfeited for failure to fulfill its obligations under that Order.

At the beginning of the hearing, counsel for the State made an oral motion, pursuant to T.C.A. §4-5-309 and Tennessee Department of Safety Rule 1340-2-2-.17, for an order finding the lienholder to be in default. In support of its motion, the State introduced evidence that notice was mailed to the lienholder by certified mail to the address provided by it. A return receipt

from the U. S. Postal Service showed the notice was received and signed for at this address. Based on this evidence, the motion of the State was **GRANTED**, the Claimant was found in **DEFAULT**.

NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN THE LIENHOLDER THAT IT HAS BEEN HELD IN DEFAULT FOR FAILURE TO APPEAR AT A HEARING ON THE MERITS AFTER RECEIVING ADEQUATE NOTICE. T.C.A. §4-5-309. LIENHOLDER HAS 15 DAYS FROM THE EFFECTIVE DATE OF THIS ORDER TO REQUEST THAT THIS FINDING OF DEFAULT BE SET ASIDE. THIS REQUEST MUST BE RECEIVED IN THE OFFICE OF THE SECRETARY OF STATE, ADMINISTRATIVE PROCEDURES DIVISION, 312 8TH AVENUE NORTH, 8TH FLOOR, WILLIAM R. SNODGRASS TOWER, NASHVILLE, TENNESSEE 37243. THE REQUEST TO HAVE THE FINDING OF DEFAULT SET ASIDE SHOULD INCLUDE THE REASONS TO JUSTIFY THE LIENHOLDER'S FAILURE TO ATTEND. IF LIENHOLDER DOES NOT REQUEST THE DEFAULT BE SET ASIDE OR OTHERWISE APPEAL THE ACCOMPANYING INITIAL ORDER, THEN THE INITIAL ORDER WILL BECOME A FINAL ORDER SUBJECT TO COURT REVIEW. ANY QUESTIONS REGARDING THIS NOTICE OF DEFAULT OR THE STEPS NECESSARY TO HAVE IT SET ASIDE SHOULD BE SUBMITTED TO THE ADMINISTRATIVE JUDGE SIGNING THIS ORDER BY LETTER OR BY TELEPHONING (615) 741-7008.

The Motion for Default having been granted, and the Lienholder having failed to show cause why the vehicle should not be forfeited pursuant to the Order, it is hereby **ORDERED** that the vehicle be **FORFEITED** to the seizing agency.

This Initial Order entered and effective this 19th day of July, 2011.

Marion P. Wall
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this
19th day of July, 2011.

Thomas G. Stovall, Director
Administrative Procedures Division