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6-29-2011

TENNESSEE DEPARTMENT OF SAFETY vs.
One 2004 Chevrolet Silverado VIN NO.:
1GCEK14VX4Z291961, Seized From:
Christopher Miles, Date of Seizure: 11/10/10,
Claimant: Christopher Miles, Lien Holder:
Santander Consumer USA, Inc.

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

IN THE MATTER OF:

**TENNESSEE DEPARTMENT OF
SAFETY**

v.

**One 2004 Chevrolet Silverado
VIN NO.: 1GCEK14VX4Z291961
Seized From: Christopher Miles
Date of Seizure: 11/10/10
Claimant: Christopher Miles
Lien Holder: Santander Consumer
USA, Inc.**

**DOCKET NO: 19.01-113088J
(D.O.S. Case No. L0199)**

INITIAL DEFAULT ORDER

This matter was heard in Memphis, Tennessee, on June 29, 2011, before Margaret R. Robertson, 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.

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.

Christopher Miles, 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 Freddy Miles signed for the notice on May 23, 2011.
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.
4. The lienholder listed on the notice of Property Seizure and the title is Drive Financial Services. The State accepted as properly filed the proof of a security interest in the vehicle submitted by Santander Consumer USA, Inc., a company with rights to service, secure or release the interest on vehicle records, including repossession and procurement of vehicles for Drive Financial Services and other companies.

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:

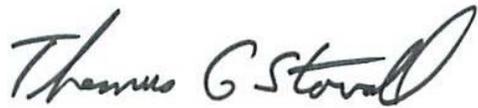
Upon a default by a claimant, a claimant's claim shall be stricken by initial default order.

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." Therefore Claimant Christopher Miles' interest in the vehicle is hereby forfeited to the seizing agency, subject to the security interest of Santander Consumer USA, Inc.

This Initial Order entered and effective this 12th day of July, 2011.

Margaret R. Robertson
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 12th day of July, 2011.



Thomas G. Stovall, Director
Administrative Procedures Division