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6-28-2011

TENNESSEE DEPARTMENT OF SAFETY vs.  
One 1997 Ford Taurus VIN NO.:  
1FALP52U5VA127792, Seized From: Toriano  
Bowen, Date of Seizure: 1/17/11, Claimant:  
Toriano Bowen, Lien Holder: N/A

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

**IN THE MATTER OF:**

**TENNESSEE DEPARTMENT OF  
SAFETY**

**v.**

**One 1997 Ford Taurus  
VIN NO.: 1FALP52U5VA127792  
Seized From: Toriano Bowen  
Date of Seizure: 1/17/11  
Claimant: Toriano Bowen  
Lien Holder: N/A**

**DOCKET NO: 19.05-113091J  
(D.O.S. Case No. L1808)**

**INITIAL DEFAULT ORDER**

This matter was heard in Memphis, Tennessee, on June 28, 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. §55-50-504 et seq. and §40-33-201 et seq.

Toriano Bowen, 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 her address of record. The Post Office returned the certified letter to the Department of Safety on June 8, 2011, marked “attempted, not known, unable to forward.” It is the responsibility of the Claimant to keep her address current.

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

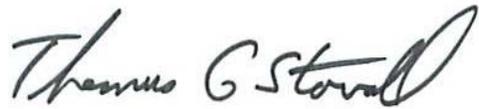
claim . . . is not filed with the applicable agency within the time specified . . . the seized property shall be forfeited and disposed of as provided by law.” Therefore, the 1997 Ford Taurus is hereby forfeited to the seizing agency as provided by law.

This Initial Order entered and effective this 11th day of July, 2011.

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Margaret R. Robertson  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this 11th day of July, 2011.



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Thomas G. Stovall, Director  
Administrative Procedures Division