



8-17-2006

DEPARTMENT OF SAFETY, EASTERN
DIVISION, vs. One 1992 Ford Taurus VIN NO.:
1FALP50U4NA22069, Seized From: Thomas
Rand, Jr., Date of Seizure: February 4, 2006,
Claimant: Big Easy Auto Pawn, Lien Holder: Big
Easy Auto Pawn

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

IN THE MATTER OF:

**DEPARTMENT OF SAFETY,
EASTERN DIVISION,**

**DOCKET NO: 19.05-093142J
(D.O.S. Case No. E9474)**

v.

**One 1992 Ford Taurus
VIN NO.: 1FALP50U4NA22069
Seized From: Thomas Rand, Jr.
Date of Seizure: February 4, 2006
Claimant: Big Easy Auto Pawn
Lien Holder: Big Easy Auto Pawn**

INITIAL DEFAULT ORDER

This matter was heard in Knoxville, Tennessee, on August 17, 2006, before William J. Reynolds, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. William Lundy, Staff Attorney for the Department of Safety, represented the State.

The subject of this hearing was the proposed forfeiture of the subject property because Big Easy Auto Pawn has failed to comply with the terms and conditions of the Order of Delegation and Forfeiture. Particularly, big Easy Auto Pawn has failed to take custody of the 1992 Ford Taurus seized from Thomas Rand, Jr.

A representative of Big Easy Auto Pawn, 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 to their address of record. A copy of the postal green card shows Gene Howerton signed for the notice on June 15, 2006.
2. Claimant did not 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:

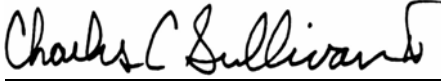
Upon a default by a claimant, a claimant's claim shall be stricken by initial default order.
3. The State's motion for default being granted, it is therefore **ordered** that Claimant's **claim be stricken**. The claim being stricken, it is as if no claim had ever been filed, which constructively evokes 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 THEREFORE ORDERED Big Easy Auto Pawn is in Default and the seized property is forfeited to the seizing agency and shall be disposed of as provided by law.

ORDERED AND ENTERED this 28th day of December, 2006.

WILLIAM JAY REYNOLDS
ADMINISTRATIVE JUDGE

FILED in the Administrative Procedures Division, Office of the Secretary of State, this 28th day of December, 2006.


CHARLES C. SULLIVAN, II, DIRECTOR
ADMINISTRATIVE PROCEDURES DIVISION