



6-29-2006

DEPARTMENT OF SAFETY vs. One 1989
Acura Legend V.I.N. # JH4KA4671KC022722,
Seized from: Sharon Lynn Combs, Date of Seizure:
01-12-06, Claimant: Value Auto Sales U.S.
Currency of \$800.01, Seized from: Sharon Lynn
Combs, Date of Seizure: 01-12-06, Claimant:
Sharon Lynn Comb

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

IN THE MATTER OF:)	
)	
DEPARTMENT OF SAFETY)	
)	
V.)	
)	DOCKET # 19.01-092594J
One 1989 Acura Legend)	D.O.S. # E8761
V.I.N. # JH4KA4671KC022722)	
Seized from: Sharon Lynn Combs)	
Date of Seizure: 01-12-06)	
Claimant: Value Auto Sales)	
)	
)	
U.S. Currency of \$800.01)	
Seized from: Sharon Lynn Combs)	
Date of Seizure: 01-12-06)	
Claimant: Sharon Lynn Combs)	

ORDER

This matter was heard on June 29, 2006 before Leonard Pogue, Administrative Judge, sitting for the Commissioner of the Tennessee Department of Safety in Knoxville, Tennessee. Mr. Will Lundy, Staff Attorney for the Department of Safety, represented the State. Claimant Sharon Lynn Combs was not present nor was an attorney present on her behalf. Claimant Value Auto Sales was represented by attorney Jerry Laughlin.

The subject of this hearing was 1) the proposed forfeiture of the currency and 2) ownership of the subject vehicle. The issue of the forfeiture of the currency was heard upon the State's Motion to be granted an Initial Default Order due to the Claimant's failure to appear at the hearing after receiving proper notice thereof. After consideration of the record it is determined that the State's Motion should be **DENIED**. It is also

determined that Value Auto Sales is the owner of the vehicle. It is therefore further **ORDERED** that the subject vehicle be returned to Value Auto Sales. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The subject of this hearing was the seizure of a 1989 Acura Legend and \$800.00 seized from Sharon Lynn Combs by the Kingsport, Tennessee Police Department on January 12, 2006.

2. Sharon Lynn Combs claimed an interest in the currency but did not appear at the hearing. The notice of hearing was sent to Carol A. Counts, by certified mail, but was not actually received by Ms. Combs. The return receipt card was returned to the sender with a notation of "other". Ms. Combs listed her address as "435 Oakwood Ave." on the Petition For Hearing she filed with the Department. The notice of hearing was mailed to "435 Oakland Ave."

3. Value Auto Sales claimed ownership of the vehicle and established that it was the true owner of the vehicle. The Department stipulated that the vehicle should not be returned to the seizing agency.

CONCLUSIONS OF LAW

1. Department of Safety Rule 1340-2-2-.17(1) provides in 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 the 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. Because the notice of hearing was sent to an incorrect address, a default should not be entered against Ms. Combs. The Department's motion is therefore **DENIED**.

3. It is determined that Value Auto Sales is the owner of the subject vehicle, and there being no other claim to the vehicle by the Department or Ms. Combs, it is **ORDERED** that the subject vehicle be returned to Value Auto Sales.

This Initial Order entered this 13th day of July 2006.

Leonard Pogue
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 13th day of July 2006.

Charles C. Sullivan, II, Director
Administrative Procedures Division