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Law

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11-19-2008

DEPARTMENT OF SAFETY vs. One 1994 Ford  
Escort, V.I.N. # 3FARP13J7RR157881, Seized  
from: Darrell K. Perry, Date of Seizure: 06-29-08,  
Claimant: Boyd Lambert, Lienholder: NA

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

**IN THE MATTER OF:**

**DEPARTMENT OF SAFETY**

**V.**

**One 1994 Ford Escort  
V.I.N. # 3FARP13J7RR157881  
Seized from: Darrell K. Perry  
Date of Seizure: 06-29-08  
Claimant: Boyd Lambert  
Lienholder: NA**

**DOCKET NO: 19.05-101125J  
D.O.S. # H5021**

**INITIAL ORDER OF DEFAULT & DISMISSAL**

This matter was heard on November 19, 2008 before Leonard Pogue, Administrative Judge, sitting for the Commissioner of the Tennessee Department of Safety in Memphis, Tennessee. Mr. Andre Thomas, Staff Attorney for the Department of Safety, represented the State. Claimant was not present nor was an attorney present on his behalf.

The subject of this hearing was the proposed forfeiture of the subject property. The matter was heard upon the State's Motion to be granted a Default Order due to Claimant failing to appear at the hearing after receiving proper notice thereof. After consideration of the record, it is determined that the State's Motion is proper and should be **GRANTED**. It is further **ORDERED** that the subject property should be **FORFEITED** to the seizing agency. 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 1994 Ford Escort seized from Darrell Perry by the Tennessee Highway Patrol on June 29, 2008.
2. Boyd Lambert claimed an interest in the vehicle but did not appear at the hearing. Claimant received notice of the hearing, by certified mail, on October 30, 2008.

3. The State's witnesses were present and the State was prepared to proceed with the hearing.

### 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. It appearing that the State made all reasonable attempts to provide notice of the hearing to the Claimant and he failed to appear, it is determined that the State has complied with the requirements of the above referenced Rule.

3. Accordingly, it is determined that the State's motion should be **GRANTED** and the Claimant be held in **DEFAULT**. It is further **ORDERED** that the subject property be **FORFEITED** to the seizing agency.

This Initial Order entered this 25th day of November, 2008.

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Thomas G. Stovall, Director  
Administrative Procedures Division