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Law

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10-22-2008

DEPARTMENT OF SAFETY vs. & H1582,1999  
Ford Windstar, Vin : 2FMZA5246XBC03030,  
Seized from: Thomas C. Vandermark, Date of  
Seizure: March 11, 2008, Claimant: Tami S.  
Vandermark, Lienholder: Highway 64 Auto Sales

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BEFORE THE COMMISSIONER OF THE  
TENNESSEE DEPARTMENT OF SAFETY

IN THE MATTER OF:	)	
	)	
DEPARTMENT OF SAFETY	)	
	)	
v.	)	DOCKET NO. 19.05-100830J
	)	DOS Case No. H1581 & H1582
1999 Ford Windstar	)	
Vin : 2FMZA5246XBC03030	)	
Seized from: Thomas C. Vandermark	)	
Date of Seizure: March 11, 2008	)	
Claimant: Tami S. Vandermark	)	
Lienholder: Highway 64 Auto Sales	)	

NOTICE OF DEFAULT AND ORDER

This administrative proceeding was heard on October 22, 2008, in Memphis, Tennessee, before John Hicks, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety. Andre Thomas, Staff Attorney for the Department of Safety, represented the State. Claimant Tami S. Vandermark was not present nor was counsel present on Claimant's behalf.

At the beginning of the hearing, counsel for the State made an oral motion pursuant to T.C.A. §4-5-309 for an order finding the Claimant to be in default. In support of its motion, the State introduced evidence that notice was mailed to the Claimant by certified mail. A return receipt shows that the notice was received. Based on this evidence, the State's motion was GRANTED and the Claimant was found in DEFAULT.

NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN THE CLAIMANT HAS BEEN HELD IN DEFAULT FOR FAILURE TO APPEAR AT A HEARING ON THE MERITS AFTER RECEIVING ADEQUATE NOTICE. T.C.A. §4-5-309. CLAIMANT HAS 15 DAYS FROM THE EFFECTIVE DATE OF THIS ORDER TO REQUEST THAT THIS FINDING OF DEFAULT BE SET ASIDE. THIS REQUEST MUST BE RECEIVED IN THE OFFICE OF THE SECRETARY OF STATE, ADMINISTRATIVE PROCEDURES DIVISION, 312 8TH AVENUE NORTH, 8TH FLOOR, WILLIAM R. SNODGRASS TOWER, NASHVILLE, TENNESSEE 37243. THE REQUEST TO HAVE THE FINDING OF DEFAULT SET ASIDE SHOULD INCLUDE THE REASONS TO JUSTIFY THE CLAIMANT'S FAILURE TO ATTEND. IF CLAIMANT DOES NOT REQUEST THE DEFAULT BE SET ASIDE OR OTHERWISE APPEAL THE ACCOMPANYING INITIAL ORDER, THEN THE INITIAL ORDER WILL BECOME A FINAL ORDER SUBJECT TO COURT REVIEW. ANY QUESTIONS REGARDING THIS NOTICE OF DEFAULT OR THE STEPS NECESSARY TO HAVE IT SET ASIDE SHOULD BE SUBMITTED TO THE ADMINISTRATIVE JUDGE SIGNING THIS ORDER BY LETTER OR BY TELEPHONING (615) 741-0513.

ORDER

The Motion for Default having been granted, the State moved to dismiss the claim in accordance with Rule 1340-2-2.17(2)(b) of the Department of Safety which provides that

“[u]pon a default by a Claimant, a Claimant’s claim shall be stricken by initial default order or, if the agency requests, the agency may proceed uncontested.”

The Agency did not request to proceed uncontested, and it is DETERMINED that the State’s Motion to Dismiss should be granted.

It is ORDERED that the claim is STRICKEN and that the Claimant’s interest in the seized 1999 Ford Windstar is FOPRFIETED to the seizing agency subject to the lien of Highway 64 Auto Sales.

This Initial Order entered and effective this 2nd day of December, 2008.

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John Hicks  
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 2nd day of December, 2008.

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Thomas G. Stovall, Director  
Administrative Procedures Division