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6-11-2008

DEPARTMENT OF SAFETY vs. One 1987 Ford  
F150 Truck, VIN: 1FTDF15Y6HNA26928,  
Seized From: Larry Dishman, Date of Seizure:  
January 22, 2008, Claimant: Larry Dishman, Lien  
Holder: None Filed

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

**IN THE MATTER OF:**

**DEPARTMENT OF SAFETY**

**v.**

**One 1987 Ford F150 Truck  
VIN: 1FTDF15Y6HNA26928  
Seized From: Larry Dishman  
Date of Seizure: January 22, 2008  
Claimant: Larry Dishman  
Lien Holder: None Filed**

**DOCKET NO: 19.05-099293J  
D.O.S. Nos. H0318, H0319**

**INITIAL DEFAULT ORDER**

This matter was heard at Highway Patrol Headquarter in Fall Branch, Tennessee, on June 11, 2008 before Steve R. Darnell, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Nina Harris, 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. §55-10-401, §55-10-403, §55-50-504, et seq. and §40-33-201 et seq.

Larry Dishman, Claimant, did not appear at the hearing. The State therefore moved for an initial order of 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 his address of record. A copy of the postal green card shows Larry Dishman signed for the notice on May 19, 2008.
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."

**IT IS THEREFORE ORDERED** that the above described vehicle is forfeited to the seizing agency.

This Initial Order entered and effective this 23rd day of June, 2008.

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Steve R. Darnell  
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 23rd day of June, 2008.



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Thomas G. Stovall, Director  
Administrative Procedures Division