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3-10-2008

DEPARTMENT OF SAFETY, MIDDLE
DIVISION, v, ONE 1997 Pont Bonneville, VIN #
1G2HZ52K3VH236157, Seized From: Andre
Seagraves, Seizure Date: April 5, 2006, Claimant:
Taylor Import Sales, Agency: Metro Narcotics Unit.

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

**DEPARTMENT OF SAFETY,
*MIDDLE DIVISION,***

v

**ONE: 1997 Pont Bonneville
VIN # 1G2HZ52K3VH236157
Seized From: Andre Seagraves
Seizure Date: April 5, 2006
Claimant: Taylor Import Sales
Agency: Metro Narcotics Unit.**

**DOCKET NO: 19.01-098291J
DOS NO: F1613**

**ORDER GRANTING DEPARTMENT'S MOTION FOR DEFAULT
AND
FORFEITURE OF VEHICLE**

THIS MATTER came on to be heard on 10 March 2008 in Nashville, Tennessee before William Reynolds, Administrative Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Orvil Orr represented the Department. The Claimant did not appear for the hearing, nor did anyone appear on Claimant's behalf.

This hearing was a "show cause" hearing to determine why the subject vehicle should not be forfeited because the Claimant had failed to take custody of the vehicle and abide by the terms of the Order of Delegation and Forfeiture Subject to Lien, entered on June 16, 2006.

The Department introduced evidence Claimant was to take custody of the vehicle within thirty (30) days, which is memorialized in the “Order of Delegation and Forfeiture Subject to Lien” entered on June 16, 2006. The Department then moved to dismiss Claimant’s claim and for a default judgment against the Claimant.

In support of its motion, the Department introduced evidence that notice of this hearing was sent to the Claimant at the address of record by certified mail.

It is determined that the Department properly served the notice of hearing upon the Claimant. Because the Claimant failed to appear at the hearing, they could not show cause why the vehicle should not be forfeited, and were found to be in DEFAULT.

After consideration of the evidence offered, the arguments of counsel, and the entire record in this matter, it is ORDERED that the seized vehicle 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 Department proffered the certified mail receipt showing service of notice upon the Claimant at their address of record. The notice of property seizure and forfeiture, the forfeiture warrant, the affidavit in support of forfeiture warrant, the petition for hearing/claim for property, and the order of Order of Delegation and Forfeiture Subject to Lien were made part of the technical record.

CONCLUSIONS OF LAW

1. The Claimant failed to abide by the Order entered June 16, 2006, which states in part:

“ . . . ORDERED that, if the LIENHOLDER fails to take custody of the CAPTIONED VEHICLE on or before thirty (30) days from the date of this ORDER, all interest in the CAPTIONED VEHICLE will be forfeited to the Seizing Agency. . .”

2. After receiving proper notice of the hearing, the Claimant failed to appear to show cause why the vehicle should not be forfeited to the seizing agency.

3. *The Rules of Tennessee Department of Safety*, Rule 1340-2-2-.17, sets forth the Department of Safety’s procedure for default and uncontested proceedings as follows:

Default and Uncontested Proceedings.

(1) Default. The motion for default may be in writing or oral.

(a) The failure of a party to attend or to participate in a prehearing conference, a party’s non-attendance at a second setting of a hearing on the merits in a case or a party’s non-attendance at another stage of contested case proceedings after notice thereof are each causes for holding such party in default pursuant to T.C.A. §4-5-309.

(c) In any situation set out in parts (a) and (b) n of this rule, a motion may be made to hold the absent party in default and to enter an initial default order or to continue on an uncontested basis.

(e) Upon default by a party, an administrative judge may enter either an initial default order or an order for an uncontested proceeding.

4. *The Rules of Tennessee Department of Safety*, Rule 1340-2-2-.17(2) (b), states: “Upon 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.”

Accordingly, it is **ORDERED** that the above captioned vehicle be immediately **FORFEITED**.

ORDERED AND ENTERED this 3rd day of October, 2008.

WILLIAM REYNOLDS
ADMINISTRATIVE JUDGE

FILED in the Administrative Procedures Division, Office of the Secretary of State, this 3rd day of October, 2008.



THOMAS G. STOVALL, DIRECTOR
ADMINISTRATIVE PROCEDURES DIVISION