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2-19-2009

DEPARTMENT OF SAFETY T.C.A. 55-5-108b1
vs. One Flatbed Semi Trailer, Vin : UNKNOWN,
Seized from: Brian S. Turnmire, Date of Seizure:
July 24, 2008, Seized by: Tennessee Highway Patrol,
Claimant: Merrill Jennings/Poor Boy Trucking,
Lienholder: N/A

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

IN THE MATTER OF:)	
)	CONTRABAND
DEPARTMENT OF SAFETY)	T.C.A. 55-5-108(b)(1)
)	
v.)	DOCKET NO. 19.03-101942J
)	DOS Case No. H5626
One: Flatbed Semi Trailer)	
Vin : UNKNOWN)	
Seized from: Brian S. Turnmire)	
Date of Seizure: July 24, 2008)	
Seized by: Tennessee Highway Patrol)	
Claimant: Merrill Jennings/Poor Boy Trucking)	
Lienholder: N/A)	

INITIAL ORDER

This administrative proceeding was heard on February 19, 2009, in Knoxville, 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. Lori Long, Staff Attorney for the Department of Safety, represented the State. Claimant Merrill Jennings/Poor Boy Trucking appeared *pro se*.

The subject of this hearing was the proposed forfeiture of the subject Flatbed Semi Trailer seized by the Tennessee Highway Patrol.

After consideration of the record, it is DETERMINED that the seized Flatbed Semi Trailer should be forfeited to the Criminal Investigation Division of the Tennessee Department of Safety as contraband pursuant to T.C.A. 55-5-108 (b)(1).

FINDINGS OF FACT

1. On July 24, 2008, Brian Turnmire drove the subject flatbed semi trailer into the Department of Safety's I-81 scales for the required weighing and inspection.

2. The Tennessee Highway Patrol determined that the identification plate had been removed from the subject flatbed semi trailer. Manufacturers place confidential identification numbers on trailers that vary by model years and locations on trailers. The Troopers contacted the Criminal Investigation Division of the Tennessee Department of Safety to investigate the missing identification plate pursuant to T.C.A. 55-5-108 (b)(1).

3. Special Agent David Brown responded and investigated the missing identification plate. Special Agent Brown contacted the National Crime Bureau to determine where the confidential identification numbers would be located. Special Agent Brown inspected the subject flatbed semi trailer and was unable to find any identification numbers. The subject flatbed semi trailer had a lot of welding repairs and the identification numbers could have been covered with other metal or just ground away. Special Agent Brown determined that there was no way to prove what identification numbers had been on the subject flatbed semi trailer.

4. Special Agent Brown's investigation revealed that the tag on the subject flatbed semi trailer was registered to a 1979 Dorsey trailer owned by Poor Boy Trucking in Greenville, North Carolina.

5. On July 25, 2008, Claimant and owner of Poor Boy Trucking Merrill Jennings faxed a title for a 1974 Great Dane trailer to the Department of Safety as the title to the subject flatbed semi trailer.

6. The subject flatbed semi trailer was seized by the Tennessee Highway Patrol as contraband pursuant to T.C.A. 55-5-108 (b)(1).

CONCLUSIONS OF LAW

1. T.C.A. 55-5-108 (b)(1) Contraband – Seizure – Forfeiture.

Any property on which the manufacturer's serial number, engine number, transmission number, vehicle identification number, or other distinguishing number or identification mark has been removed, defaced, covered, altered, destroyed or otherwise rendered unidentifiable is hereby declared to be contraband and subject to forfeiture to the state.

2. It is CONCLUDED that the State carried its burden of proof by a preponderance of the evidence, or as the more probable conclusion, that the seized Flatbed Semi Trailer's manufacturer's serial number and other distinguishing numbers or identification marks had been removed, defaced, covered, altered, destroyed or otherwise rendered unidentifiable.

3. It is CONCLUDED that because the Flatbed Semi Trailer's serial numbers and other distinguishing numbers or identification marks have been removed, defaced, covered, altered, or destroyed, the trailer has been rendered unidentifiable and contraband pursuant to T.C.A. 55-5-108 (b)(1).

4. It is CONCLUDED that the seized Flatbed Semi Trailer should be forfeited to the Criminal Investigation Division of the Tennessee Department of Safety as contraband pursuant to T.C.A. 55-5-108 (b)(1).

5. It is ORDERED that the seized Flatbed Semi Trailer is **Forfeited** to the Criminal Investigation Division of the Tennessee Department of Safety as **Contraband** pursuant to T.C.A. 55-5-108 (b)(1) for disposition as provided by law.

This Initial Order entered and effective this 7th day of April, 2009.

John Hicks
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State this
7th day of April, 2009.

Thomas G. Stovall, Director
Administrative Procedures Division