



6-23-2009

DEPARTMENT OF SAFETY vs. \$1,400.00 in U.S.
Currency, Cricket Cell Phone, Serial No.
12BF17EE, Seized From: Gary J. Fleming, Date of
Seizure: October 20, 2008, Seized By: Maury
County Sheriff's Office, Claimant: Gary J. and
Renee M. Flemming

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BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF SAFETY

IN THE MATTER OF:)	
)	FORFEITURE PROCEEDING
DEPARTMENT OF SAFETY)	
)	
v.)	DOCKET NO. 19.01-102295J
)	DOS Case No. H8298
\$1,400.00 in U.S. Currency)	
Cricket Cell Phone, Serial No. 12BF17EE)	
Seized From: Gary J. Fleming)	
Date of Seizure: October 20, 2008)	
Seized By: Maury County Sheriff's Office)	
Claimant: Gary J. and Renee M. Flemming)	

NOTICE OF DEFAULT AND ORDER

This administrative proceeding was heard on June 23, 2009, in Lawrenceburg, 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. Orvil Orr, Staff Attorney for the Department of Safety, represented the State. Claimants Gary J. and Renee M. Flemming appeared *pro se*.

At the beginning of the hearing, the State moved default order pursuant to T.C.A. §4-5-309 finding Claimant to be in default. In support of its motion, the State introduced evidence that notice was mailed to the Claimants by certified mail. A return receipt shows that the notice was received. Based on this evidence, the State's motion was GRANTED and the Claimants were 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 Claimants’ interest in the seized \$1,400.00 in U.S. currency and the Cricket Cell Phone are FORFEITED to the seizing agency, Maury County Sheriff’s Office, for disposition as provided by law.

This Initial Order entered and effective this 4th day of August, 2009.

John Hicks
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 4th day of August, 2009.

Thomas G. Stovall, Director
Administrative Procedures Division