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5-18-2010

DEPARTMENT OF SAFETY vs. \$35 in U.S.  
Currency One 2000 Lincoln Navigator VIN:  
5LMFU28A6YLJ31816, Seized From: Devin T.  
Green, Date of Seizure: November 23, 2009,  
Claimant: Sekayi Hodge, Lien Holder: E&S Auto  
Sales, Inc

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

**IN THE MATTER OF:**

**DEPARTMENT OF SAFETY**

**v.**

**\$35 in U.S. Currency  
One 2000 Lincoln Navigator  
VIN: 5LMFU28A6YLJ31816  
Seized From: Devin T. Green  
Date of Seizure: November 23, 2009  
Claimant: Sekayi Hodge  
Lien Holder: E&S Auto Sales, Inc.**

**DOCKET NO: 19.01-107656J  
D.O.S. Case No. J9992**

**INITIAL DEFAULT ORDER**

This matter was heard in Nashville, Tennessee, on May 18, 2010, before Steve R. Darnell, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Attorney Orvil Orr represented the Tennessee Department of Safety.

The subject of this hearing was the proposed forfeiture of the subject property for its alleged use in violation of T.C.A. §53-11-201 et seq. and §40-33-201 et seq.

Sekayi Hodge, Claimant, did not appear at the hearing. The Department therefore moved for an initial order of **default** and dismissal of his Claim. 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 S. Hodge signed for the notice on April 17, 2010.
2. Claimant failed to appear on the day of the hearing. Nor did an attorney appear on Claimant's behalf.
3. The Department 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 Department'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 and the U.S. currency be forfeited to the seizing agency. E&S Auto Sales, Inc. should contact the seizing agency to determine its future obligations.

This Initial Order entered and effective this 15th day of June, 2010.

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Steve R. Darnell  
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,  
this 15th day of June, 2010.



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Thomas G. Stovall, Director  
Administrative Procedures Division