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1-12-2009

Curtisteen H5040 McNeal, 1976 Oldsmobile, VIN
#3M57R6R154061, \$221.00 in U.S. Currency,
Seized from: Caricus O. Hendrix, Seizure date: June
22, 2008, Claimants: Curtisteen McNeal

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

IN THE MATTER OF:

**Curtisteen (H5040) McNeal
1976 Oldsmobile
VIN #3M57R6R154061
\$221.00 in U.S. Currency
Seized from: Caricus O. Hendrix
Seizure date: June 22, 2008
Claimants: Curtisteen McNeal**

DOCKET NO: 19.01-101649J

NOTICE OF DEFAULT AND INITIAL ORDER

This matter was set to be heard on January 12, 2009 before Joyce Carter-Ball, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Joe Bartlett, Staff Attorney for the Department of Safety, represented the State. Claimant was not present, nor was anyone present on Claimant's behalf.

Counsel for the State made a motion, pursuant to T.C.A. §4-5-309 and Tennessee Department of Safety Rule 1340-2-2-.17, for an order finding the Claimant to be in default. In support of its motion, the State introduced evidence that it sent notice of the hearing by certified mail to the address provided to the Department by Claimant. The certified mail return receipt was introduced as exhibit 1 at the hearing. Based on this evidence, it is **CONCLUDED** that the Department made reasonable efforts to obtain

proper service on Claimant. The motion of the State was **GRANTED**, and the Claimant was found in **DEFAULT**.

NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN THE CLAIMANT THAT 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 TO BE SET ASIDE OR OTHERWISE APPEAL THE ACCOMPANYING INITIAL ORDER, THEN THE INITIAL ORDER WILL BECOME A FINAL ORDER SUBJECT TO COURT REVIEW.

Rule 4.04 (11) of the *Tennessee Rules of Civil Procedure* addresses service of notice when such notice is mailed by return-receipt mail and is returned "unclaimed". It states as follows:

When service of a summons, process, or notice is provided for or permitted by registered or certified mail under the laws of Tennessee *and the addressee or the addressee's agent refuses to accept delivery and it is so stated in the return receipt of the United States Postal Service, the written return receipt if returned and filed in the action shall be deemed an actual and valid service of the summons, process, or notice.* Service by mail is complete upon mailing. For purposes of this paragraph, the United States Postal Service notation that a properly addressed registered or certified letter is "unclaimed," or other similar notation, is sufficient evidence of the defendant's refusal to accept delivery. [effective July 1, 2004.]

The Motion for Default having been granted, the State chose not to conduct the proceeding without the participation of the Claimant, therefore, the proceeding was adjourned.

THEREFORE, pursuant to Department of Safety Rule 1340-2-2-.17(2) (b), this claim is hereby **STRICKEN**.

It is ordered that the subject 1976 Oldsmobile and \$221.00 be **forfeited** to the seizing agency.

This Initial Order entered and effective this 3rd day of February, 2009.

Joyce Carter-Ball
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 3rd day of February, 2009.



Thomas G. Stovall, Director
Administrative Procedures Division