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Administrative Procedures Division

Law

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10-3-2012

DEPARTMENT OF SAFETY vs. One 2005 Ford  
F-150, VIN: 1FTPX12555NB00100, Seized from:  
Ricardo Ortega, Date of Seizure: 04-10-12,  
Claimant: Ricardo Ortega

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

**IN THE MATTER OF:**

**DEPARTMENT OF SAFETY**

**V.**

**One 2005 Ford F-150  
VIN: 1FTPX12555NB00100  
Seized from: Ricardo Ortega  
Date of Seizure: 04-10-12  
Claimant: Ricardo Ortega**

**DOCKET NO: 19.01-118493J  
D.O.S. # M5619**

**INITIAL ORDER OF DEFAULT AND DISMISSAL**

This matter was heard on October 3, 2012 before Leonard Pogue, Administrative Judge, sitting for the Commissioner of the Tennessee Department of Safety in Memphis, Tennessee. Mr. Andre Thomas, Staff Attorney for the Department of Safety, represented the State. Claimant was not present nor was an attorney present on her behalf.

The subject of this hearing was the proposed forfeiture of the subject property. The matter was heard upon the State's Motion to be granted an Initial Default Order due to the Claimant's failure to appear at the hearing after receiving proper notice thereof. After consideration of the record, it is determined that the State's Motion is proper and should be **GRANTED**. It is further **ORDERED** that the subject property should 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 subject of this hearing was the seizure of a Ford F-150 from Ricardo Ortega by the Memphis Police Department on April 10, 2012.
2. Ricardo Ortega claimed an interest in the vehicle but did not appear at the hearing, nor did an attorney appear on his behalf. The State provided proof that service of the notice of hearing was made at Claimant's address of record on August 28, 2012.
3. The State's witnesses were present and the State was prepared to proceed with the hearing.

### CONCLUSIONS OF LAW

1. Department of Safety Rule 1340-2-2-.17(1) provides in 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 the 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. It appearing that the State made all reasonable attempts to provide notice of the hearing to the Claimant and he failed to appear, it is determined that the State has complied with the requirements of the above referenced Rule.
3. Accordingly, it is determined that the State's motion should be **GRANTED** and the Claimant be held in **DEFAULT**. It is further **ORDERED** that the vehicle be **FORFEITED** to the seizing agency.

This Initial Order entered this 11 day of October, 2012

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Thomas Stovall, Director  
Administrative Procedures Division

