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Tennessee Department of State, Opinions from the  
Administrative Procedures Division

Law

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9-26-2012

DEPARTMENT OF SAFETY vs. One 1999  
Cadillac Seville, VIN: 1G6KY549XXU923258,  
Seized from: Jerry Cummings, Date of Seizure: 3/  
1/12, Claimant: Jerry Cummings

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

<b>IN THE MATTER OF:</b>	)	
	)	
<b>DEPARTMENT OF SAFETY</b>	)	
	)	
<b>v.</b>	)	<b>DOCKET NO. 19.05-118486J</b>
	)	<b>DOS Case No. M3973</b>
<b>One 1999 Cadillac Seville</b>	)	
<b>VIN: 1G6KY549XXU923258</b>	)	
<b>Seized from: Jerry Cummings</b>	)	
<b>Date of Seizure: 3/1/12</b>	)	
<b>Claimant: Jerry Cummings</b>	)	

**ORDER**

This matter was heard on September 26, 2012, before Marion P. Wall, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Mr. Andre Thomas, Staff Attorney for the Department of Safety, represented the State. Claimant was not present, nor was counsel present on his behalf. The State's attorney has represented that no other person or entity has an interest in this property or has filed a claim in this matter.

The Claimant and the State had previously entered into an Order of Compromise and Settlement. This order provided that if the Claimant failed to honor the terms of that agreement the subject property would be forfeited. Claimant has failed to pay the amount agreed to or pick up the subject vehicle.

This hearing was to allow Claimant to appear and show cause why he has not complied with the terms of that Order, and show why the property should not be forfeited for his failure to fulfill his obligations under that Order of Forfeiture.

At the beginning of the hearing, counsel for the State made an oral 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 notice was mailed to the Claimant by certified mail to the Claimant's attorney. The notice was received and signed for. Based on this evidence, the motion of the State was **GRANTED**, the Claimant was found in **DEFAULT**.

#### **NOTICE OF DEFAULT**

NOTICE IS HEREBY GIVEN THE CLAIMANT THAT HE 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) 741-7008.

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. Pursuant to the terms of the Order of Compromise and Settlement, the subject property is FORFEITED to the seizing agency.

This Initial Order entered and effective this 26 day of December, 2012

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Marion P. Wall  
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 26 day of December, 2012

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Thomas G. Stovall, Director  
Administrative Procedures Division