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Angela Berlin vs. Department of Safety

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

IN THE MATTER OF:)
)
TENNESSEE DEPARTMENT)
OF SAFETY)
)
v.)
)
ONE: 2003 BMW 325I)
VIN: WBAET37413NJ28095)
SEIZED FROM: JORDAN TURNER)
DATE OF SEIZURE: 9/6/11)
CLAIMANT: ANGELA BERLIN)
)

DOCKET NO. 19.01-116457J
DOS CASE: L9773

ORDER

This matter was heard on January 23, 2013, before Marion P. Wall, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Ms. Nina Harris, Staff Attorney for the Department of Safety, represented the State. Claimant was not present, nor was counsel present on her 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.

This matter was initially heard by Judge Anthony Adgent, who ordered the return of the vehicle. The State appealed, and this matter was remanded for further consideration of whether the Claimant was an innocent owner and whether she was the owner of the vehicle, two matters previously dealt with in Judge Adgent’s order. Thus, this matter was set for further proceedings on these issues. 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 timely mailed to the Claimant's attorney by certified mail. A return receipt from the U. S. Postal Service showed the notice was received. 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 SHE 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.

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THEREFORE pursuant to Department of Safety Rule 1340-2-2-.17(2) (b), this claim is hereby **STRICKEN**. Further, pursuant to T.C.A. §40-33-206, there being no other claim or claimant in this case, the statute provides that the property described above is **FORFEITED** to the seizing agency.

This Initial Order entered and effective this _____ day of _____ 2013.

Marion P. Wall
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this _____ day of _____ 2013.

Thomas G. Stovall, Director
Administrative Procedures Division