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11-4-2013

## KC's Used Cars vs. Safety

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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>DOCKET NO. 19.05-123005J</b>
<b>v.</b>	)	
	)	
<b>ONE: 1998 FORD</b>	)	
<b>VIN NO: 1FAFP4448WF260670</b>	)	
<b>SEIZED FROM: JUSTIN MCELYEA</b>	)	
<b>DATE OF SEIZURE: 9/20/12</b>	)	
<b>CLAIMANT: KC'S USED CARS</b>	)	
<b>LIEN HOLDER: KC'S USED CARS</b>	)	

**NOTICE OF DEFAULT AND ORDER**

This administrative proceeding was heard on September 26th, 2013, by Anthony Adgent, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety in Chattanooga, Tennessee. The State was represented by Allyson Kennedy. The Claimant was not present.

At the beginning of the hearing, counsel for the State made an oral motion pursuant to T.C.A. §4-5-309 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. A return receipt shows that the notice was duly 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 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.

**ORDER**

The Motion for Default having been granted, the State moved to dismiss the claim in accordance with Rule 1340-2-2.17(2)(b) of the Department of Safety which provides

that “[u]pon a default by a Claimant, a Claimant’s claim shall be stricken by initial default order or, if the agency requests, the agency may proceed uncontested.”

The agency did not request to proceed uncontested, and it is DETERMINED that the State’s Motion to Dismiss should be granted.

It is **ORDERED** that the claims of KC’S USED CARS and Justin Mcelyea are **DISMISSED** and the subject property forfeited.

This Initial Order entered and effective this \_\_\_\_\_ day of

\_\_\_\_\_ 2013.

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Anthony Adgent  
Administrative Judge

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

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Richard Collier, Director  
Administrative Procedures Division