



University of Tennessee, Knoxville
**Trace: Tennessee Research and Creative
Exchange**

Tennessee Department of State, Opinions from the
Administrative Procedures Division

Law

3-11-2014

Eaglemark Savings Bank vs. Safety

Follow this and additional works at: http://trace.tennessee.edu/utk_lawopinions

This Initial Order by the Administrative Judges of the Administrative Procedures Division, Tennessee Department of State, is a public document made available by the College of Law Library, and the Tennessee Department of State, Administrative Procedures Division. For more information about this public document, please contact administrative.procedures@tn.gov

**BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY**

IN THE MATTER OF:)
)
TENNESSEE DEPARTMENT OF)
SAFETY & HOMELAND SECURITY)
)
v.)
)
One 2009 Harley Davidson (AL))
VIN No.: 1HD1BX5119Y029724)
Seized from: Bobby D. Pettie)
Date of Seizure: June 26, 2012)
Claimant: N/A)
Lienholder: Eaglemark Savings Bank)
)

DOCKET NO. 19.01-123554J
[D.O.S. CASE NO. M8673]

NOTICE OF DEFAULT;

INITIAL ORDER

The hearing in this Show Cause matter was held on October 30, 2013 in Lawrenceburg, Tennessee, before Mattielyn B. Williams, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Safety and Homeland Security. Ms. Karen Litwin, Staff Attorney III, Tennessee Department of Safety and Homeland Security, represented the State. Lienholder Eaglemark Savings Bank has been representing itself, but did not appear for the hearing.

The 2009 Harley Davidson (AL), that is the subject of this hearing, was seized on June 26, 2012 because the 17th Judicial District Task Force found Bobby D. Pettie to be utilizing the subject vehicle in violation of the Tennessee Drug Control Act, thus making

the property subject to seizure, pursuant to T.C.A. §53-11-451. The subject vehicle was allegedly used as a container, as providing transportation, for its use in facilitating, for having been obtained in an exchange, as constituting proceeds or as otherwise involved in an exchange, in violation of the Tennessee Drug Control Act.

Driver Pettie did not file a claim for the return of the subject vehicle. Lienholder Eaglemark Savings Bank timely filed to protect its interest as Lienholder.

The seized 2009 Harley Davidson (AL) was forfeited to the seizing agency, subject to the lien of Eaglemark Savings Bank. Eaglemark Savings Bank was required to take possession of the subject vehicle within thirty (30) days.

When several months passed, without Eaglemark Savings Bank taking possession, the State set this matter for a Show Cause hearing. On October 30, 2013, the Lienholder was given the opportunity to appear to explain the extensive delay in retrieval of the subject vehicle.

No attorney appeared at the hearing on Lienholder Eaglemark Savings Bank's behalf. The Lienholder had not moved that the hearing be continued.

The State moved that the Lienholder be held in default. The Lienholder received notice of the Show Cause Hearing on October 2, 2013, when it signed the US Postal Service's receipt for the Notice of Hearing.

It was **DETERMINED** that the State made a reasonable and adequate effort to provide Eaglemark Savings Bank notice of the date, time, and location of the hearing. The State's Motion for Default was **GRANTED**.

NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN THE LIENHOLDER THAT THE LIENHOLDER HAS BEEN HELD IN DEFAULT FOR THE LIENHOLDER'S FAILURE TO APPEAR AT A HEARING ON THE MERITS AFTER RECEIVING ADEQUATE NOTICE. T.C.A. §4-5-309. LIENHOLDER HAS FIFTEEN (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, SUITE 800, WILLIAM R. SNODGRASS BUILDING, 312 EIGHTH AVENUE NORTH NASHVILLE, TENNESSEE 37243, WITHIN THAT 15-DAY PERIOD. THE REQUEST TO HAVE THE FINDING OF DEFAULT SET ASIDE SHOULD INCLUDE THE REASONS TO JUSTIFY THE LIENHOLDER'S FAILURE TO ATTEND. IF SUFFICIENT REASONS ARE GIVEN, THE ORDER MAY BE SET ASIDE AND A NEW HEARING SCHEDULED. IF THE LIENHOLDER 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. 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) 741-4469.

Eaglemark Savings Bank may move to have the Default Set Aside within fifteen (15) days, for good cause shown.

ORDER

The State moved that the interest of Lienholder Eaglemark Savings Bank be struck, for failure to appear at the hearing and for failure to retrieve the subject vehicle within the required thirty (30) days. The State's Motion to Strike Lienholder Eaglemark Savings Bank's interest in the seized vehicle was **GRANTED**.

With there being no other Claimants or Lienholders for the seized vehicle, it is hereby **ORDERED** that the seized 2009 Harley Davidson (AL) is hereby **FORFEITED** to the seizing agency, for disposition as provided by law, free from the interest, if any, of Lienholder Eaglemark Savings Bank.

This Initial Order entered and effective this ____ day of March, 2014.

Mattielyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State
this ____ day of March, 2014.

J. Richard Collier, Director
Administrative Procedures Division