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Law

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November 2015

## Ann M. Mastele & Clarksville Title Loans vs. Safety

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**State of Tennessee**  
**Department of State**  
Administrative Procedures Division  
312 Rosa L. Parks Avenue  
8<sup>th</sup> Floor, William R. Snodgrass Tower  
Nashville, Tennessee 37243-1102  
Phone: (615) 741-7008/Fax: (615) 741-4472

November 18, 2015

Commissioner Bill Gibbons  
Tennessee Department of Safety  
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Tennessee Department of Safety  
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Division of Legal Services  
1150 Foster Avenue  
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Nashville, TN 37249-1000

RE: In the Matter of: Ann M. Mastele and Clarksville Title Loans (N0792)  
Docket No. 19.01-121378J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division  
Tennessee Department of State

/aem  
Enclosure

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

**IN THE MATTER OF:**

**ANN M. MASTELE AND CLARKSVILLE  
TITLE LOANS**

**DOCKET NO. 19.01-121378J**

**NOTICE**

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **December 3, 2015**.

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION  
WILLIAM R. SNODGRASS TOWER  
312 ROSA PARKS AVENUE, 8<sup>th</sup> FLOOR  
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472**. PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

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

<b>IN THE MATTER OF:</b>	)	
	)	
<b>DEPARTMENT OF SAFETY</b>	)	<b>DOCKET # 19.01-121378J</b>
	)	<b>D.O.S. # N0792</b>
<b>v.</b>	)	
	)	
<b>One 2000 Toyota Corolla</b>	)	
<b>VIN: 2T1BR12EXYC315595</b>	)	
<b>Seized from: Ann Mastele</b>	)	
<b>Seizure Date: September 4, 2012</b>	)	
<b>Lienholder: Clarksville Title Loans</b>	)	
	)	

**INITIAL ORDER OF DEFAULT AND DISMISSAL**

This matter was heard on November 12, 2015, before Leonard Pogue, Administrative Judge, sitting for the Commissioner of the Tennessee Department of Safety & Homeland Security in Nashville, Tennessee. Ms. Karen Litwin, Staff Attorney for the Department of Safety & Homeland Security, represented the State. The lienholder was not present nor was its attorney present on its behalf.

The subject of this hearing was the proposed forfeiture of the subject property for the failure of the lienholder to take custody of the vehicle. The matter was heard upon the State's Motion to be granted an Initial Default Order due to the lienholder'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 vehicle was seized by the Clarksville Police Department on September 4, 2012. Clarksville Title Loans filed with the Department of Safety its perfected security interest in the subject vehicle. On August 7, 2013, an Initial Order was entered in the matter forfeiting the subject vehicle to the seizing agency subject to the lienholder's (Clarksville Title Loans) interest. Clarksville Title Loans has failed to take custody of the vehicle and the Department set the instant proceeding to give Clarksville Title Loans an opportunity to show cause why its interest should not be forfeited.

2. Neither the lienholder nor its attorney appeared at the hearing. The notice of the hearing was delivered to the lienholder's attorney's address of record, by certified mail, on October 16, 2015.

### 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 lienholder and it 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 lienholder be held in **DEFAULT**. It is further **ORDERED** that the subject property be **FORFEITED** to the seizing agency.

This Initial Order entered this 18<sup>th</sup> day of November, 2015.



Leonard Pogue  
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 18<sup>th</sup> day of November, 2015.



J. Richard Collier, Director  
Administrative Procedures Division

**APPENDIX A TO INITIAL ORDER**  
**NOTICE OF APPEAL PROCEDURES**

**Review of Initial Order**

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8<sup>th</sup> Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

**Review of Final Order**

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

**YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER**

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.