



**Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of Claims Against the Dealer Bond
of Bates Motors LLC

Case No: DOT-24-0037

Claimant: [REDACTED]

FINAL DECISION

Western Surety Company
101 S Reid Street, Suite 300
Sioux Falls, SD 57103

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

Bates Motors, LLC
1648 Calumet Drive
Sheboygan, WI 53081

[REDACTED]
[REDACTED]
[REDACTED]

In accordance with Wis. Stat. § 227.47 and 227.53(1)(c) the above-named are certified as PARTIES to this proceeding.

PRELIMINARY RECITALS

On July 31, 2024, [REDACTED] filed a claim with the Wisconsin Department of Transportation (DOT) against the motor vehicle dealer bond of Bates Motors, LLC (dealer). On August 19, 2024, the DOT referred the matter to the Division of Hearings and Appeals. On September 27, 2024, pursuant to the procedures set forth at Wis. Admin. Code § Trans 140.26, a Public Notice to File Dealer Bond Claims was published in the *Sheboygan Press*, a newspaper published in the County of Sheboygan, Wisconsin. The notice informed others who may have claims against the dealer to file them with the DOT by November 27, 2025. No additional claims were filed.

On February 20, 2025, the Division of Hearings and Appeals by the undersigned Administrative Law Judge issued a Preliminary Determination. No objections were received. Pursuant to Wis. Admin. Code § Trans 140.26(5)(d), the Preliminary Determination is adopted as the Final Decision of the Department of Transportation.

FINDINGS OF FACT

1. Bates Motors, LLC (dealer) is licensed by the Wisconsin Department of Transportation (DOT) as motor vehicle dealer. [REDACTED] is the owner of the dealer.

2. The dealer has had a continuous surety bond in force in the amount of \$50,000 satisfying the requirements of Wis. Stat. § 218.0114(5) with a beginning date of November 1, 2023 (Bond # [REDACTED] from Western Surety Company).

3. On or about April 20, 2024, [REDACTED] (claimant) purchased a [REDACTED], vehicle identification number (VIN) [REDACTED] from the dealer for \$3,000 plus \$165 in taxes and \$304.50 in fees. The Wisconsin Buyer's Guide did not list any problems with the vehicle. (Bond Claim Ex. 1)

4. On or about June 21, 2024, claimant filed a complaint with the DOT stating he was unable to obtain title and registration for the vehicle. Additionally, there were problems with the vehicle's air conditioning (A/C) and brakes.

5. The DOT attempted to contact the dealer and obtain records but was unable to make contact with the dealer. The DOT was able to assist claimant in obtaining title and registration for the vehicle.

6. On July 17, 2024, claimant obtained a repair estimate from Tuffy Tire & Auto Service in Appleton, Wisconsin for a total amount of \$8,987.88 (Bond Claim Ex. 6), comprised of the following:

- (a) \$1,120.17 for all brakes;
- (b) \$1,881.25 for the A/C system;
- (c) \$700.53 to replace belt and tensioner;
- (d) \$2,792.68 to replace shocks and struts;
- (e) \$107.60 for wheel alignment;
- (f) \$683.64 to mount and balance tire;
- (g) \$87.97 to degrease and dye;
- (h) \$1,066.17 to replace power steering pump;
- (i) \$297.24 to replace front wheel speed sensors; and
- (j) \$250.53 for transmission drop and fill.

7. On July 31, 2024, claimant obtained a preliminary estimate for body work from Tims Body Shop in Little Chute, Wisconsin for a total amount of \$16,275.06 (Bond Claim Ex. 7) for repairs to the front bumper and grille; fender; pillars, rocker and floor; front door; rear door; rear lamps; and rear bumper.

8. On July 31, 2024, claimant filed a bond claim against the dealer in the amount of \$24,965.60, which is meant to cover the cost of the estimated repairs.

9. On or about August 29, 2024, the DOT referred the bond claim to the Division of Hearings and Appeals for a declaratory ruling pursuant to Wis. Admin. Code § Trans 140.26(1).

10. The DOT recommended that the claim be paid in the amount of \$3,165, which equates to a buyback of the vehicle. The DOT notes that the repair estimates include repairs unrelated to the A/C and brakes claimant initially complained about. For the A/C and brakes, which he did complain about, the estimated repair costs would be \$3,001.42 (\$1,120.17 for the brakes and \$1,881.25 for the A/C system), which exceeds the purchase price of the vehicle.

DISCUSSION

The procedure for determining claims against dealer bonds is set forth in Transportation Chapter 140, Subchapter II, of the Wisconsin Administrative Code.

A claim is allowable if it satisfies each of the following requirements:

- (a) The claim shall be for monetary damages in the amount of an actual loss suffered by the claimant.
- (b) The claim arose during the period covered by the security.
- (c) The claimant's loss shall be caused by an act of the licensee... which is grounds for suspension or revocation of [a salesperson or motor vehicle dealer license pursuant to s. 218.0116(1)(a) to (gm), (im)2., (j), (jm), (k), (m) or (n) to (p), Stats]. ...
- (d) The claim must be made within 3 years of the last day of the period covered by the security..." Wis. Admin. Code § Trans 140.21(1).

The record shows that the dealer engaged in violations that would constitute grounds for suspension or revocation of a motor vehicle dealer license under Wis. Stat. § 218.0116(1)(gm) (violating any law relating to the sale, lease, distribution, or financing of motor vehicles).

The dealer violated Wis. Admin. Code § Trans 139.03(6)(a) relating to the Wisconsin Buyer's Guide. The guide is required to state in simple, concise language that the vehicle is used, all material history, prior use, and title brands. The dealer violated this by not disclosing problems with the vehicle's condition that should have been discovered upon reasonable inspection, as evidenced by the repair company's diagnosis of these problems immediately following the sale. The dealer violated Wis. Admin. Code § Trans 139.03(1) by using false, deceptive, or misleading advertising or representation to induce the purchase of a vehicle.

Likewise, the dealer violated Wis. Admin. Code § Trans 139.04(4) relating to the required general condition disclosure for used motor vehicles. The disclosure "shall include all significant existing mechanical, electrical and electronic defects and damage and evidence of repair to strut tower, trunk floor pan, frame or structural portion of unibody, including corrective welds. Disclosure of information shall be that which the licensee can find using reasonable care." The record shows that the dealer either knew about the vehicle's defects and damage but did not disclose it, or the dealer failed to use reasonable care to determine the information necessary for disclosure. Either way, it was a violation.

Additionally, the dealer violated Wis. Admin. Code § Trans 138.04(3) requiring dealers to maintain records and make them open to inspection by the DOT.

The dealer's actions in failing to accurately disclose the vehicle's condition and make records available caused the claimant's loss. The true condition and history of the vehicle is unknown as a result of the lack of records. Further, it induced the claimant to purchase a vehicle the claimant reasonably believed to be more valuable than it actually was as it relates at least to the brakes and A/C system. Because repairing those items would cost more than the value of the vehicle itself, a buyback is the reasonable and appropriate outcome of the claim.

The claim is allowed in the amount of \$3,469.50 (\$3,000 purchase price + \$165 in taxes + \$304.50 in fees). Upon payment to the claimant from the bond company, the claimant will need to return the vehicle to the dealer.

CONCLUSIONS OF LAW

1. The claim arose on April 20, 2024, which is the date of purchase of the vehicle from the dealer. The surety bond issued to the dealer by Western Surety Company covers the period commencing on November 1, 2023. The claim arose during the period covered by the surety bond. The claim is allowable under Wis. Admin. Code § Trans 140.21(1)(b).
2. The claim was filed on July 31, 2024, which is within three years of the last day of the period covered by the surety bond. The claim is timely pursuant to Wis. Admin. Code § Trans 140.21(1)(d).
3. The claimant suffered monetary damages as a result of an actual loss related to the vehicle that was caused by acts of the dealer that would be grounds for suspension or revocation of its motor vehicle dealer license. The claim is allowable under Wis. Admin. Code §§ Trans 140.21(1)(a) and (c).
4. The Division of Hearings and Appeals has authority to issue the following order. Wis. Stat. §§ 227.43(1)(br) and 227.41(1), and Wis. Admin. Code § Trans 140.26(1).

ORDER

The claim filed by [REDACTED] against the dealer bond of Bates Motors, LLC is APPROVED in the amount of **\$3,469.50**. Western Surety Company shall pay the claimant this amount for the loss attributable to the actions of the dealer. In turn, the claimant shall return the vehicle to the dealer.

Dated at Madison, Wisconsin on April 4, 2025.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
4822 Madison Yards Way
Madison, Wisconsin 53705
Telephone: (608) 266-7709
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By: _____
Rachel Pings | Administrative Law Judge

NOTICE

Set out below is a list of alternative methods available to persons who may wish to obtain review of the attached decision of the Administrative Law Judge. This notice is provided to ensure compliance with Wis. Stat. § 227.48 and sets out the rights of any party to this proceeding to petition for rehearing and administrative or judicial review of an adverse decision.

1. Any person aggrieved by the attached order may within twenty (20) days after service of such order or decision file with the Department of Transportation a written petition for rehearing pursuant to Wis. Stat. § 227.49. A copy of any such petition for rehearing should also be provided to the Administrative Law Judge who issued the order. Rehearing may only be granted for those reasons set out in Wis. Stat. § 227.49(3). A petition under this section is not a prerequisite for judicial review under Wis. Stat. §§ 227.52 and 227.53.

2. Any person aggrieved by the attached decision which adversely affects the substantial interests of such person by action or inaction, affirmative or negative in form is entitled to judicial review by filing a petition therefore in accordance with the provisions of Wis. Stat. §§ 227.52 and 227.53. Said petition must be served and filed within thirty (30) days after service of the agency decision sought to be reviewed. If a rehearing is requested as noted in paragraph (1) above, any party seeking judicial review shall serve and file a petition for review within thirty (30) days after service of the order disposing of the rehearing application or within thirty (30) days after final disposition by operation of law. Pursuant to Wis. Admin. Code § TRANS 140.26(7), the attached final decision of the Administrative Law Judge is a final decision of the Department of Transportation, so any petition for judicial review shall name the Department of Transportation as the respondent. The Department of Transportation shall be served with a copy of the petition either personally or by certified mail. The address for service is:

Office of General Counsel
Wisconsin Department of Transportation
4822 Madison Yards Way, 9th Floor South
Madison, Wisconsin 53705

Persons desiring to file for judicial review are advised to closely examine all provisions of Wis. Stat. § 227.52 and 227.53 to ensure strict compliance with all its requirements.