



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

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In the Matter of Claims Against the Dealer Bond of  
One Way Auto Exchange, LLC

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Case No: DOT-24-0002

**FINAL DETERMINATION**

On July 21, 2023, a Public Notice to File Dealer Bond Claims was published in the Daily Reporter, a newspaper published in Milwaukee, Wisconsin, pursuant to Wis. Admin. Code § Trans 140.26 in response to the submission of a separate bond claim against the motor vehicle bond of One Way Auto Exchange, LLC (Dealer). The notice informed other persons who may have claims against the Dealer to file them with the Wisconsin Department of Transportation (Department) by September 19, 2023. On August 24, 2023, a second claim was filed against the Dealer's bond, and on November 7, 2023, a third claim was filed against the Dealer's bond.

Then, on or about December 5, 2023, [REDACTED] (Claimant) filed an additional claim, the claim at issue here, against the Dealer's bond. The total amount of all claims does not exceed the value of the bond. The initial bond claim (Case No. DOT-23-0015), the second bond claim (Case No. DOT-23-0030), and the third bond claim (Case No. DOT-24-0001) are addressed in separate preliminary determinations.

A Preliminary Determination on [REDACTED] claim was issued on April 17, 2024 pursuant to Wis. Admin. Code § Trans 140.26(4)(a). No objections to the Preliminary Determination 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.

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

One Way Auto Exchange, LLC (Dealer)  
7016 N. 76th St.  
Milwaukee, WI 53223-5006

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] (Claimant)  
[REDACTED]  
[REDACTED]

Hudson Insurance Company  
100 William St. 5th Floor  
New York, NY 10038

## FINDINGS OF FACT

1. One Way Auto Exchange, LLC (Dealer) was licensed by the Wisconsin Department of Transportation (Department) as a motor vehicle dealer. The Dealer's license expired on September 30, 2023. The Dealer's facilities were located at 7016 N 76th St, Milwaukee, WI 53223.

2. The Dealer had a continuous surety bond in force in the amount of \$50,000 satisfying the requirements of Wis. Stat. § 218.0114(5) beginning July 23, 2021, which expired August 13, 2023 (Bond # 10125622 from Hudson Insurance Company).

3. On February 24, 2023, the Claimant, [REDACTED] purchased a 2008 Ford (Vehicle) with a vehicle identification number of [REDACTED] from the Dealer. The purchase price of the Vehicle was \$4,631.44.

4. On October 3, 2023, the Claimant submitted a dealer complaint to the Department because she had not received her title and registration for the Vehicle. The Department investigator, [REDACTED] subsequently reached out to the Claimant and the Dealer.

5. Investigator [REDACTED] reviewed the Department records and discovered that the Dealer had submitted a title application for the Vehicle for another customer, [REDACTED]. The records indicated that the Dealer sold the Vehicle to [REDACTED] on November 15, 2023, and submitted the title application to the Department on February 1, 2023, and then the Department attached [REDACTED] child support lien to the Vehicle. Additionally, the Department determined that the Vehicle was a salvage vehicle.

6. The Department Investigator met with the Dealer to have the Dealer confirm the sale of the Vehicle to the Claimant and for additional documents related to the sale. The Dealer did not provide the requested documents.

7. Following the purchase, the Claimant learned of the Vehicle's salvage brand. Additionally, she incurred repairs for the Vehicle, which she indicated to the Department Investigator totaled \$1,500. She did not provide documentation to the Department verifying that these repairs were incurred.

8. On or about December 5, 2023, the Claimant submitted a claim against the surety bond of the Dealer with the Department. The claim seeks damages in the amount of \$6,500, which the Claimant indicated was the amount she paid for the Vehicle plus repairs.

9. The claim arose on February 24, 2023, which is the date the Claimant purchased the vehicle. The bond claim was filed within three years of the ending date the bond issued by Hudson Insurance Company was in effect.

10. Prior claims were filed on June 12, 2023 (approved in the amount of \$6,926.05 in Case No. DOT-23-0015), on August 24, 2023 (approved in the amount of \$3,487.50 in Case No. DOT-23-0030), on November 13, 2023 (approved in the amount of \$2,061.50 in Case No. DOT-24-0001). The total amount of all claims is less than the full amount of the bond.

11. On or about December 28, 2023, the Department referred the Claimant's bond claim to the Division of Hearings and Appeals for a declaratory ruling pursuant to Wis. Admin. Code § Trans 140.26(1). The Department recommended that the claim be paid in the amount of \$4,634.44.

## DISCUSSION

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

A claim is an allowable claim if it satisfies each of the following requirements and is not excluded by sub. (2) or (3):

- (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, or the [licensee's] agents or employees, which is grounds for suspension or revocation of any of the following:
  - 1. A salesperson license or a motor vehicle dealer license, in the case of a secured salesperson or motor vehicle dealer, 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. The department shall not approve or accept any surety bond or letter of credit which provides for a lesser period of protection.

Wis. Admin. Code § Trans 140.21(1).

Accordingly, to allow the Claimant's claim against the Dealer's surety bond a finding must be made that the Dealer violated one of the sections of Wis. Stat. § 218.0116(1), identified in Wis. Admin. Code § Trans 140.21(1)(c)1, and that the violation caused the loss claimed. The burden of proof is on the Claimant to prove by a preponderance of the evidence that a violation occurred. *See* Wis. Admin. Code § HA 1.12(3)(b); *see also State v. Hanson*, 98 Wis. 2d 80, 295 N.W.2d 209 (Wis. App. 1980).

In the present matter, the evidence demonstrates that the Dealer failed to transfer the title within seven business days. Wis. Stat. § 342.16(1). The statutes require a dealer to process and mail

the application of title to the Department within seven business days of the sale. Wis. Stat. § 342.16(1). In this case, the Dealer did not process the title application for the Claimant's purchase. Instead, it processed the application of a prior owner earlier that same month, in February 2023, and a lien was added to the title preventing the Claimant from having title.

Because the above violations occurred as a result of a vehicle sale, they constitute a violation of Wis. Stat. § 218.0116(1)(gm), which specifies that a license may be denied, suspended or revoked for having violated any law relating to the sale of motor vehicles. Therefore, the claim is allowable pursuant to Wis. Admin. Code § Trans 140.21(1)(c)5.

The Claimant's bond claim form submitted in this matter lists the total amount of the claim as \$6,500. The Claimant indicated that this was for the purchase price of \$5,000 and \$1,500 in repairs. The purchase contract shows that the total price for the Vehicle was \$4,631.44. The Claimant has not provided documentation to show that she paid \$5,000 for the Vehicle. Additionally, the Claimant has not provided documentation verifying the cost or reason for the repairs. Therefore, the Claimant's actual loss is limited to \$4,631.44, the price of the Vehicle in the purchase contract.

#### CONCLUSIONS OF LAW

1. [REDACTED] claim arose on February 24, 2023, which is the date that the Vehicle was purchased from the Dealer. The continuous surety bond issued to the Dealer by Hudson Insurance Company covers the period commencing on July 23, 2021 and expired August 13, 2023. The claim arose during the period covered by the surety bond.
2. On or about December 5, 2023, [REDACTED] filed a claim against the motor vehicle bond of the Dealer. The bond claim was filed within three years of the last day of the period covered by the surety bond. Pursuant to Wis. Admin. Code § Trans 140.21(1)(d), the claim is timely.
3. The Dealer violated Wis. Stat. 342.16(1) and 139.04(5)(a), which constitutes a violation of Wis. Stat. § 218.0116(1)(gm).
4. [REDACTED] loss was caused by an act of the Dealer that would be grounds for suspension or revocation of its motor vehicle wholesale dealer license. [REDACTED] was unable to hold the title and registration of the Vehicle because of the Dealer's errors.
5. 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 the Claimant, [REDACTED] against the motor vehicle dealer bond of One Way Auto Exchange, LLC is APPROVED in the amount of \$4,631.44. Hudson Insurance Company shall pay the Claimant [REDACTED] this amount for her loss attributable to the actions of One Way Auto Exchange, LLC.

The Department and Hudson Insurance Company may take further action at their discretion to take possession of the Vehicle.

Dated at Madison, Wisconsin on June 13, 2024.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
4822 Madison Yards Way  
Madison, Wisconsin 53705  
Telephone: (414) 227-4025  
FAX: (608) 264-9885

By: /s/

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Angela Chaput Foy  
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 [REDACTED] 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.