



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

In the Matter of Claim Against the Dealer Bond of
Auto Source, LLC

Case No: DOT-24-0004

FINAL DECISION

On January 4, 2024, Claimant [REDACTED] (Claimant) filed a bond claim with the Wisconsin Department of Transportation (Department) against the motor vehicle dealer bond of Auto Source, LLC, (Dealer). 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 Daily Reporter, a newspaper published in Milwaukee County, Wisconsin, on January 26, 2024. The notice informed other persons who may have claims against the Dealer to file them with the Department by March 26, 2024. No additional claims were filed. However, the Division of Hearings and Appeals subsequently learned that the Dealer's Bond had been cancelled effective June 9, 2021. On June 13, 2024 a Preliminary Determination was issued under 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:

Auto Source, LLC
7704 W. Appleton Ave.
Milwaukee, WI 5322

Nichole Turner, ID# 2024006754
Milwaukee County Jail
949 N. 9th Street
Milwaukee, WI 53233

Capitol Indemnity Corp.
1600 Aspen Commons, Ste. 300
Middleton, WI 53562

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

FINDINGS OF FACT

1. Auto Source, LLC (Dealer), is licensed by the Wisconsin Department of Transportation as a motor vehicle dealer. The Dealer's facilities are located at 7704 W. Appleton Ave., Milwaukee, Wisconsin.

2. The Dealer had a bond in force satisfying the requirements of Wis. Stat. § 218.0114(5) beginning on June 9, 2020 (Bond # A190063913) from Capitol Indemnity Corporation.

3. On April 1, 2021, Capitol Indemnity Corporation issued a Notice of Cancellation of the bond effective June 9, 2021.

4. On September 7, 2023, the Dealer sold a 2011 Jeep Grand Cherokee Laredo automobile, vehicle identification number [REDACTED] (the vehicle), to Claimant, [REDACTED] (Claimant). The purchase price for the vehicle was listed in the purchase contract as \$7,517.66.

5. The Claimant paid a down payment in the amount of \$3,000 cash towards the purchase price of the vehicle on September 7, 2023 and took possession of the vehicle pending approval for financing for the balance of the purchase price.

6. On September 8, 2023, the Claimant returned the vehicle to the Dealer due to the vehicle "running hot." The Dealer provided the Claimant with a loaner vehicle to use while the 2011 Jeep was being examined and repaired.

7. The Claimant subsequently got into a car accident while operating the Dealer's loaner vehicle, which resulted in the loaner vehicle being totaled.

8. On September 30, 2023, the Claimant filed a complaint with the Department's — Dealer Section against the Dealer. The investigator for the Department assigned to the complaint contacted the Dealer multiple times to request the production of records related to the Claimant's complaint. The investigator also requested that the Dealer refund the Claimant's \$3,000 down payment.

9. On November 9, 2023, the Department issued an advisory letter to the Dealer for failing to produce records related to the complaint.

10. On November 29, 2023, the Department issued a warning letter to the Dealer due to the Dealer's failure to respond to the Department.

11. On January 4, 2024, the Claimant filed a bond claim against the surety bond of the Dealer with the Department of Transportation. The Bond Claim form set forth a claim for \$3,000.00 for the return of the downpayment that the Claimant had put down for the vehicle.

12. The Claimant's claim arose on September 7, 2023, which was the day the Claimant paid a down payment towards the purchase of the vehicle that is the subject of this claim against the surety bond of the Dealer.

DISCUSSION

The procedure for determining claims against dealer bonds is set forth at Wis. Admin. Code Chapter Trans 140, Subchapter II. Wis. Admin Code § Trans 140.21(1) provides in relevant part:

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.

The Claimant in the present matter has asserted a loss associated with not receiving return of her \$3,000 down payment after returning a vehicle to the Dealer. A claim is only allowable, however, if it meets the requirements of Wis. Admin. Code § Trans 140.21(1). Pursuant to Wis. Admin. Code § Trans 140.21(1)(b), the claim must arise during the period covered by the bond. In the present matter, the Claimant's claim arose on September 7, 2023. However, the Dealer bond in this matter was cancelled effective June 9, 2021. Accordingly, the Claimant's claim falls outside the period covered by the bond. Therefore, the claim must be denied.

CONCLUSIONS OF LAW

1. The claim of [REDACTED] arose on September 7, 2023, the day she made a down payment towards the purchase of the subject vehicle from the Dealer.
2. The surety bond issued to the Dealer by Capitol Indemnity Corporation covered a one-year period commencing on June 9, 2020 and the bond was cancelled effective June 9, 2021.
3. The Claim is not allowable under Wis. Admin. Code § Trans 140.21(1)(b), because it arose outside the period covered by the surety bond and, specifically, after the bond had been cancelled.
4. The Division of Hearings and Appeals has authority to issue the following order.

ORDER

The claim filed by [REDACTED] against the motor vehicle dealer bond of Auto Source, LLC, is DENIED.

Dated at Madison, Wisconsin on September 30, 2024.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
4822 Madison Yards Way 5th Floor
Madison, Wisconsin 53705
Telephone: (608) 266-7709
FAX: (608) 264-9885

By: /s/
Kristin P. Fredrick
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.