



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

In the Matter of Claims Against the Dealer Bond
of Credit King Auto Sales, LLC

Case No: DOT-24-0021

Claimant: [REDACTED]

FINAL DECISION

TO: Credit King Auto Sales, LLC
c/o Ronald Bork
1001 S. 50th Ave., #12
Wausau, WI 54401-8637

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

[REDACTED]
3207 Eldorado Blvd., Apt 2
Eau Claire, WI 54701

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

PRELIMINARY RECITALS

On May 9, 2024, [REDACTED] filed a bond claim with the Wisconsin Department of Transportation against the motor vehicle dealer bond of Credit King Auto Sales, LLC. 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 Wausau Daily Herald, a newspaper published in Marathon County, Wisconsin, on June 17, 2024. The notice informed other persons who may have claims against the Dealer to file them with the Department by August 19, 2024. T

A separate claim was filed against the dealer's bond on April 20, 2024. The second bond claim (Case No. DOT-24-0023) is addressed in a separate case.

On December 9, 2024, the Division of Hearings and Appeals by Administrative Law Judge Reisha Mitchell 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. Credit King Auto Sales, LLC (Dealer), was licensed by the Wisconsin Department of Transportation as a motor vehicle dealer. The Dealer's facilities were located at 1924 Hallie Rd., Ste. 3 in Lake Hallie, WI 54729.
2. The Dealer has had a continuous bond in force satisfying the requirements of Wis. Stat. § 218.0114(5) since November 10, 2020 (Bond # 65287049 from Western Surety Company).
3. On September 12, 2023, the Dealer sold a 2012 Dodge Grand Caravan (vehicle identification number [REDACTED]) to the Claimant for \$4,299.
4. The Dealer did not provide the Claimant with a Wisconsin Buyers Guide. According to the Motor Vehicle Purchase Contract, the Dealer agreed to "fix power steering and ticking noise."
5. The Claimant began to experience a loud ticking noise coming from the engine the following day. The Claimant also noticed issues with the brakes. The Claimant notified the Dealer of the issue, and the Dealer agreed that the Claimant could have the issues diagnosed by his own mechanic. The Claimant reported that his mechanic told him the engine would need to be disassembled.
6. Eventually, the Dealer offered to replace the vehicle with a different van for an additional cost, which the Claimant refused.
7. On February 14, 2024, the Claimant filed a complaint with the Department's Dealer Section against the Dealer. On February 23, 2024, the Dealer's owner told a DOT investigator that the business did not have the funds to repair the problems with the vehicle and would be going out of business.
8. On March 20, 2024, the Claimant had the vehicle towed to Rick's Service Center, LLC in Eau Claire, where they identified various issues with the vehicle, including: that the brakes were not legal, transmission cooler line seepage, front and rear shocks leaking, ticking noise coming from the engine, and a rear head gasket and valve that required replacing. The estimated cost to repair the vehicle was \$2,657. The diagnostic fees incurred by the Claimant were \$355.96.
9. On May 9, 2024, the Claimant filed a bond claim against the surety bond of the Dealer with the Department of Transportation. The Bond Claim does not specify the amount of damages, but the Claimant later confirmed with the Department that his claim was for \$4,654.96, which includes the purchase price of \$4,299 plus towing and diagnostic fees of \$355.96.

10. The Claimant's claim arose on September 12, 2023, the day he purchased the vehicle that is the subject of this claim against the surety bond of the Dealer. The bond claim was filed within three years of the ending date of the one-year period the bond issued by the Western Surety Company was in effect and is, therefore, a timely claim.

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.

Pursuant to the relevant portions of Wis. Stat. § 218.0116(1), grounds for suspension or revocation of a dealer's license may include the following:

(c) Willfully defrauding any retail buyer, lessee or prospective lessee to the buyer's, lessee's or prospective lessee's damage.

(cm) Willful failure to perform any written agreement with any retail buyer, lessee or prospective lessee.

...

(gm) Having violated any law relating to the sale, lease, distribution or financing of motor vehicles.

...

Id. Accordingly, to allow the claim filed against the surety bond of the Dealer, a finding must be made that the Dealer violated one of the sections of Wis. Stat. § 218.0116(1) as identified in Wis. Admin. Code § Trans 140.21(1)(c)1. In addition, the violation must cause the loss claimed.

In the present matter, the Dealer failed to perform the repairs pursuant to the vehicle purchase contract. The Dealer's willful non-performance of the written agreement and failure to provide the title despite receipt of payment from [REDACTED] for the cost of same constitutes violations under Wis. Stat. § 218.0116(1)(c)(willfully defrauding any retail buyer...to the buyer's...damage) and Wis. Stat. § 218.0116(1)(cm)(Willful failure to perform any written agreement with any retail buyer...). Wis. Stat. §§ 218.0116(1)(c) and (cm) are both listed under Wis. Admin. Code § Trans 140.21(1)(c)1 as violations upon which a claim against a motor vehicle dealer's bond can be based.

The Dealer also violated Wis. Admin. Code § Trans 139.04(4) and (6)(a)1, which requires that dealers disclose defects on a Wisconsin Buyers Guide form, including material history, that is displayed on the vehicle at the time it is offered for sale. Under Wis. Admin. Code § Trans 139.04(4) and (6), a dealer is required to disclose in writing "significant existing mechanical defects" of any used vehicle offered for sale that can be discovered during a reasonable pre-sale inspection. Further, a dealer is required within 30 days of notification to remedy problems with the vehicle that should have been reported on the Buyers Guide. Wis. Admin. Code § Trans 139.04(6)(a)5. It is considered an unfair practice to not remedy a problem that could have been discovered using reasonable care if the buyer notified the dealer within a reasonable time. *Id.*

The Claimant in this matter began experiencing problems with the vehicle immediately after he purchased it from the Dealer. The Claimant notified the Dealer within a reasonable time. The problems experienced with the vehicle should have been discovered during a reasonable presale inspection of the vehicle and should have been disclosed on a Wisconsin Buyers Guide displayed on the automobile at the time it was offered for sale. The Dealer either failed to perform a reasonable presale inspection of the vehicle or intentionally failed to disclose the results of the presale inspection on a Wisconsin Buyers Guide displayed on the vehicle when it was offered for sale. Either way the Dealer's actions in failing to report the vehicle's condition on the Buyers Guide and then refusing to repair the vehicle constitute violations of Wis. Admin. Code § Trans 139.04(4) and (6)(a)1 and 5. A violation of any of these sections, in turn, constitutes a violation of Wis. Stat. § 218.0116(1)(gm). Wis. Stat. § 218.0116(1)(gm) is identified under Wis. Admin. Code § Trans 140.21(1)(c)1. [REDACTED] sustained a loss as a result of these violations, which is the cost of parts and labor to repair the vehicle in the amount of \$4,654.96.

CONCLUSIONS OF LAW

1. The claim of [REDACTED] arose On September 12, 2023, the day he purchased the subject vehicle from the Dealer. The surety bond issued to the Dealer by Western Surety Company covers a continuous period commencing on November 10, 2020. The claim arose during the period covered by the surety bond.

2. [REDACTED] filed a claim against the motor vehicle dealer bond of the Dealer on May 9, 2024. 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. [REDACTED] loss was caused by acts of the Dealer that would be grounds for suspension or revocation of its motor vehicle dealer license. [REDACTED] has supplied documentation to support a claim in the amount of \$4,654.96. Pursuant to Wis. Admin. Code § Trans 140.21(1)(c), the claim is allowable.
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 motor vehicle dealer bond of Credit King Auto Sales, LLC, is **APPROVED** in the amount of **\$4,654.96**. Western Surety Company shall pay [REDACTED] this amount for their loss attributable to the actions of Credit King Auto Sales, LLC.

APPEAL RIGHTS FOLLOW

Dated at Madison, Wisconsin on January 10, 2025.

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: _____
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.