



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

In the Matter of the Wholesaler Dealers License of
Expedited Fleet Dispatch Services, LLC

DHA Case No: DOT-24-0045
DOT Case No.: 2024DOT127

FINAL DECISION

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

Expedited Fleet Dispatch Services, LLC, by:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Department of Transportation, by:
Attorneys Mathias Rekowski
and Christian Hanson
4822 Madison Yards Way, Room S922
Madison, WI 53707

PRELIMINARY RECITALS

On November 1, 2024, the Division of Hearings and Appeals (DHA), by Administrative Law Judge Andrea Brauer, issued a Proposed Decision affirming the Department of Transportation's revocation of Expedited Fleet Dispatch Services, LLC's wholesale dealer license. Pursuant to the process described in Wis. Stat. § 227.46(2m), the parties were advised of the right to file objections to the Proposed Decision. No objections were filed.

Accordingly, the Administrator hereby adopts the Proposed Decision as DHA's Final Decision, as follows:

PROCEDURAL HISTORY

On August 22, 2024, the Department of Transportation (Department) provided notice to Expedited Fleet Dispatch Services, LLC (Expedited Fleet) that it was revoking Expedited Fleet's wholesale dealer license effective August 16, 2024. Pursuant to Wis. Stat. § 218.0116(4)(c), a Department hearing examiner held a hearing to review the revocation and issued a decision approving and affirming the revocation on September 10, 2024. On October 8, 2024, [REDACTED] filed a request on behalf of Expedited Fleet for a hearing to review the license revocation. The Department referred the matter to the Division of Hearings and Appeals for a class 2 hearing, and Administrative Law Judge Andrea Brauer was assigned to preside over the matter.

A prehearing conference was held on October 16, 2024, at which time the hearing was scheduled and deadlines for prehearing submission of exhibits and witness lists were established. The hearing was held, pursuant to due notice and at the agreement of the parties, on October 28, 2024 via remote video conference. Testimony was heard from Department staff [REDACTED] and [REDACTED] as well as Expedited Fleet's representative [REDACTED]. The hearing was digitally recorded. The record includes the digital recording and Exhibits 1-9.

FINDINGS OF FACT

1. Expedited Fleet has been licensed by the Department as a wholesale dealership since June 2022. It is not licensed as a Wisconsin motor vehicle dealership. Expedited Fleet's business address is 1929 S. 56th Street, West Allis, Wisconsin. ([REDACTED] Hearing Testimony)
2. While licensed as a wholesale dealership, Expedited Fleet regularly sold vehicles directly to retail customers, including the following (Ex. 3-8; [REDACTED] and [REDACTED] [REDACTED] Hearing Testimony):
 - a. In June 2024, Expedited Fleet sold a 2011 Nissan Rogue (VIN [REDACTED]) to retail customer R.R. (Ex. 3) According to documentation provided by the Department, Expedited Fleet purchased the vehicle at auction in June 2024 for \$1,900. (*Id.* at pp. 8-11) [REDACTED] co-owner of Expedited Fleet, then submitted a title and license plate application to the Department for the vehicle on behalf of Expedited Fleet. The vehicle was titled to Expedited Fleet on June 4, 2024. (*Id.* at pp. 8-9) Shortly thereafter, Expedited Fleet sold the vehicle to R.R. for a purchase price of \$4,700. The vehicle title was transferred from Expedited Fleet to R.R. on June 11, 2024. The vehicle title transfer document lists the purchaser as R.R. and the seller as Expedited Fleet. (*Id.* at pp. 13-16) ([REDACTED] Hearing Testimony)
 - b. In May or June 2024, Expedited Fleet sold a 2013 Nissan (VIN [REDACTED]) to retail customer S.S. (Ex. 4) Expedited Fleet purchased the vehicle at auction in April 2024. (*Id.* at p. 17-20) On April 30, 2024, the vehicle title was transferred to Expedited Fleet or [REDACTED] (*Id.* at p. 20,

24) Shortly thereafter, Expedited Fleet sold the vehicle to S.S., with a listed purchase price of \$1,500. Following the sale, [REDACTED] submitted the vehicle title transfer documents to the Department on behalf of S.S. Those documents identify [REDACTED] or Expedited Fleet as the seller. (*Id.* at pp. 22-27) ([REDACTED] Hearing Testimony)

- c. In September 2023, Expedited Fleet sold a 2006 Toyota Tundra (VIN 5TBDT48156S520206) to retail customer C.V. (Ex. 5) According to the certificate of title, Expedited Fleet purchased the vehicle at auction in September 2023, with [REDACTED] listed as the authorized agent. (*Id.* at pp. 28-31) Shortly thereafter, Expedited Fleet sold the vehicle to S.S. for a purchase price of \$5,000. (*Id.* at p. 33) The vehicle title was transferred from Expedited Fleet to C.V. on September 12, 2023. The title transfer document is signed by [REDACTED] and lists the purchaser as C.V. and the seller as [REDACTED] or Expedited Fleet. (*Id.* at p. 36) ([REDACTED] Hearing Testimony)
- d. In June or July 2023, Expedited Fleet sold a 2012 BMW X5 (VIN 5UXZV4C5XCL758856) to retail customer J.R. (Ex. 6) Expedited Fleet purchased the vehicle at auction in June 2023. [REDACTED] then completed a title transfer application for the vehicle and, on June 13, 2023, the vehicle title was transferred to Expedited Fleet, with [REDACTED] signing as the authorized agent. (*Id.* at p. 41) Shortly thereafter, Expedited Fleet sold the vehicle to J.R. for a purchase price of \$7,500. (*Id.* at p. 44) The vehicle title was transferred from [REDACTED] or Expedited Fleet to J.R. on July 1, 2023. The title transfer document is signed by [REDACTED] and lists the purchaser as J.R. and the seller as [REDACTED] or Expedited Fleet. (*Id.* at p. 46) ([REDACTED] Hearing Testimony)
- e. In July 2023, Expedited Fleet sold a 2008 Chevrolet Impala (VIN [REDACTED]) to retail customer S.V. (Ex. 7) Expedited Fleet purchased the vehicle at auction in July 2023. [REDACTED] then completed a title transfer application for the vehicle and, on July 11, 2023, the vehicle title was transferred to Expedited Fleet, with [REDACTED] signing as the authorized agent. (*Id.* at pp. 47-50) Shortly thereafter, Expedited Fleet sold the vehicle to S.V. for a purchase price of \$5,000. (*Id.* at p. 52) The vehicle title was transferred from [REDACTED] or Expedited Fleet to S.V. as of July 31, 2023. The title transfer document is signed by [REDACTED] and lists the purchaser as S.V. and the seller as [REDACTED] on behalf of Expedited Fleet. (*Id.* at pp. 54-55) ([REDACTED] Hearing Testimony)
- f. In July 2023, Expedited Fleet sold a 2014 Chevrolet Equinox (VIN [REDACTED]) to retail customer K.K. (Ex. 8) Expedited Fleet purchased the vehicle at auction in July 2023. [REDACTED] then completed a title transfer application for the vehicle and, on July 17, 2023, the vehicle title was transferred to Expedited Fleet, with [REDACTED] signing as the authorized agent. (*Id.* at pp. 56-59) Shortly thereafter, Expedited Fleet sold the vehicle to S.V.

for a purchase price of \$3,500. (*Id.* at p. 60) The vehicle title was transferred from [REDACTED] or Expedited Fleet to S.V. as of July 31, 2023. The title transfer document is signed by [REDACTED] It lists the purchaser as K.K. and the seller as [REDACTED] on behalf of Expedited Fleet. (*Id.* at pp. 62-63) ([REDACTED] Hearing Testimony)

3. By letter dated August 22, 2024, the Department provided notice to Expedited Fleet that it was revoking Expedited Fleet's wholesale dealer license effective August 16, 2024 on the grounds that Expedited Fleet had impermissibly sold vehicles directly to customers. (Ex. 9)
4. On September 10, 2024, a Department hearing examiner held a hearing on the notice of revocation and issued a decision approving and affirming the revocation effective October 10, 2024.
5. On October 8, 2024, Expedited Fleet filed a hearing request with the Division of Hearings and Appeals, which formed the basis for the instant contested case hearing.

DISCUSSION

The only issue for hearing is whether the Department's revocation of Expedited Fleet's wholesaler dealer license was correct. The Department bears the burden to prove by a preponderance of the evidence that the revocation should be affirmed. Wis. Admin. Code §§ HA 1.12(3) and 1.17(2).

Under Wisconsin's dealership laws, wholesale dealerships are only permitted to sell vehicles to motor vehicle dealers, motor vehicle auction dealers, or salvage dealers. Wis. Stat. § 218.0101(38). "A wholesaler may not sell motor vehicles to retail buyers." Wis. Admin. Code § Trans 138.027(2). In comparison, licensed motor vehicle dealerships may sell vehicles directly to retail customers – and, accordingly, motor vehicle dealers are subject to a broader range of regulatory requirements than wholesalers, including mandatory vehicle condition disclosures and completion of a Wisconsin Buyer's Guide for each vehicle sold. Wholesalers are, for example, not required to utilize the Wisconsin Buyer's Guide, since they do not sell vehicles directly to retail buyers. ([REDACTED] and [REDACTED] Hearing Testimony) *See* Wis. Stat. § 218.0101(28); Wis. Admin. Code ch. Trans 139.

Accordingly, a wholesale dealership that sells vehicles directly to retail customers is subject to sanctions under Wis. Stat. § 218.0116(1)(gm), which provides that the Department may deny, suspend, or revoke a wholesale dealership license based upon the violation of any law relating to the sale, lease, distribution or financing of motor vehicles.

Here, the record establishes that Expedited Fleet regularly sold vehicles directly to retail buyers, thereby engaging in prohibited sales transactions which were beyond the scope of its wholesaler license. The Department presented title documents for six vehicle sales (a 2011 Nissan Rogue, 2013 Nissan, 2006 Toyota Tundra, 2012 BMW, 2008 Chevy, and 2014 Chevy), which show that in each transaction Expedited Fleet purchased the vehicle at auction and then

shortly thereafter sold the vehicle directly to a retail customer. (Ex. 3-8) In response, [REDACTED] does not dispute that her name and signature appears on the title documents, which list her or Expedited Fleet as the seller in each of the transactions. She also testified that she met with and regularly communicated with customers regarding the sale of vehicles, providing information about the vehicles. She states that this has been her business model since Expedited Fleet first went into business in 2022.

[REDACTED] asserts, however, that she believed her business practices to be permissible, since Expedited Fleet was established for the purpose of buying vehicles for a company called Universal Auto. She states that in each of the transactions at issue the seller was actually Universal Auto, and Expedited Fleet merely facilitated the transactions as a wholesaler. However, there is no record of Universal Auto having any involvement in these sales. The name Universal Auto does not appear on any of the documentation provided, which all show the vehicles as having been purchased and sold by Expedited Fleet. Department Investigator [REDACTED] also testified that Universal Auto is not a Wisconsin licensed motor vehicle dealership, and that he did not come across any documentation or otherwise during the course of his investigation which indicated that Universal Auto was involved in any of the sales at issue. He also testified that during his investigation he spoke with several of the retail customers, who all indicated that they had met with a representative of Expedited Fleet who looked like [REDACTED] prior to purchasing the vehicle. In response, [REDACTED] provided no further evidence to corroborate her assertion that Universal Auto was the actual seller in these transactions. Therefore, her testimony is not credible.

Based on the above, I find that Expedited Fleet violated Wis. Admin. Code § Trans 138.027(2) by selling vehicles directly to retail customers. Expedited Fleet also violated Wis. Stat. § 218.0114(1) by engaging in the activities of a motor vehicle dealership without the required license. These violations, both of which relate to the sale of motor vehicles, are grounds for sanctions under Wis. Stat. § 218.0116(1)(gm). License revocation is warranted under the circumstances based upon the severity and repeated nature of the violations. Based on [REDACTED] testimony, it appears that Expedited Fleet's entire business model is to sell vehicles directly to retail consumers. While Expedited Fleet may have simply misunderstood the proper role of a wholesaler, its business model was set up in a way that violates the scope of its license. Revocation is therefore fully warranted, and the Department's order should be affirmed.

CONCLUSIONS OF LAW

1. The Division of Hearings and Appeals has authority to issue this decision and order pursuant to Wis. Stat. §§ 218.0116(2) and 227.46(2m).
2. The Department bears the burden of proving by a preponderance of the evidence that the revocation of Expedited Fleet's wholesale dealership license should be affirmed, pursuant to Wis. Admin. Code §§ HA 1.12(3) and 1.17(2).
3. The preponderance of the evidence shows that Expedited Fleet violated Wis. Admin. Code § Trans 138.027(2) by selling vehicles directly to retail customers.

4. By selling vehicles directly to consumers, Expedited Fleet thereby also violated Wis. Stat. § 218.0114(1) by engaging in the activities of a motor vehicle dealership without the required licensure.
5. Revocation of Expedited Fleet's license is warranted pursuant to Wis. Stat. § 218.0116(1)(gm) based upon the above violations of law, which relate to the sale, lease, distribution or financing of motor vehicles. Therefore, the revocation should be affirmed.

ORDER

NOW THEREFORE, based on the findings of fact and conclusions of law, it is ORDERED that the Department's revocation of Expedited Fleet Dispatch Services, LLC's wholesale dealer license is AFFIRMED.

Dated at Madison, Wisconsin on December 23, 2024.

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

By:____/s/_____
Brian Hayes | Administrator

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 Division. This notice is provided to insure 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 Division of Hearings and Appeals a written petition for rehearing pursuant to Wis. Stat. § 227.49. 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. Any petition for judicial review shall name the Division of Hearings and Appeals as the respondent. The Division of Hearings and Appeals shall be served with a copy of the petition either personally or by certified mail. The address for service is:

DIVISION OF HEARINGS AND APPEALS
4822 Madison Yards Way, Fifth Floor
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 insure strict compliance with all its requirements.