



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

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

Case No: DOT-24-0012

Claimant: [REDACTED]

FINAL DECISION

To: Hudson Insurance Company
100 Williams St., 5th Floor
New York, NY 10038

[REDACTED]
Oasis Auto Sales, LLC
2944 W. 25th Pl., #1
Chicago, IL 60623-4115

[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 or about January 3, 2024, [REDACTED] (claimant) filed a claim with the Wisconsin Department of Transportation (Department) against the motor vehicle dealer bond of Oasis Auto Sales, 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 Beaver Dam Citizen, a newspaper published in Beaver Dam, Wisconsin. The notice informed other persons who may have claims against the Dealer to file them with the Department by May 13, 2024. No additional claims were filed.

On September 5, 2024, the Division of Hearings and Appeals (DHA) 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.

FINDINGS OF FACT

1. Oasis Auto Sales LLC (Dealer) was licensed by the Department as a wholesale motor vehicle dealer until May 1, 2023, when the Department terminated its dealer license.
2. The Dealer had a continuous bond in force beginning October 1, 2022 (Bond # 60009701 by Hudson Insurance Company) in the amount of \$25,000. The bond expired on August 14, 2023.
3. On June 15, 2023, [REDACTED] ([REDACTED] purchased a 2013 Ford Taurus (VIN [REDACTED]) from the Dealer for \$11,000. [REDACTED] is a retail buyer of the vehicle.
4. [REDACTED] began to experience problems with the vehicle hours after purchasing the vehicle from the Dealer, when smoke began blowing out from the tail pipes.
5. Subsequent inspection of the vehicle revealed that both of the turbos had excessive shaft play, were not spinning, and were blowing oil and metal into the intake. The entire timing assembly had to be removed and replaced, totaling \$5,449.98 in parts and labor.
6. On November 7, 2023, [REDACTED] contacted the Department to complain about the vehicle problems. She reported that the Dealer had gone out of business, and she was unable to contact them. She also reported that she was unable to title the vehicle, as the Dealer, as a wholesaler, was not licensed to sell vehicles to retail purchasers.
7. On January 3, 2024, [REDACTED] 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 \$5,449.98, which is the amount the Claimant paid to repair the vehicle.
8. [REDACTED] claim arose on June 15, 2023, the day she purchased the automobile 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 Auto Owners Insurance Company was in effect and is, therefore, a timely claim.

DISCUSSION

The procedure for determining claims against dealer bonds is set forth within the Wisconsin Administrative 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.

2. A recreational vehicle dealer license, in the case of a bonded recreational vehicle dealer, pursuant to s. 218.11(6), Stats.

3. A salvage dealer license, in the case of a bonded salvage dealer, pursuant to s. 218.22(3), Stats.

4. An auction dealer license, in the case of a bonded auction dealer, pursuant to s. 218.32(3), Stats.

5. Any other license issued by the department under ch. 218, Stats., in any other case, including that of a bonded manufacturer, distributor, distributor-wholesaler, or trailer dealer, pursuant to s. 218.0116(1), 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.

██████ has asserted a loss associated with purchasing a vehicle, from a dealer not licensed to sell to retail customers, that had substantial damage to both turbos and required substantial cost to repair. In order to allow the 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 (Ct. App. 1980).

Under Wis. Admin. Code § Trans 138.027(2), a wholesale dealer may not sell motor vehicles to retail buyers. Under Wis. Admin. Code § Trans 139.04(4) and (5), a dealer is required to disclose in writing to inform prospective purchasers of used vehicles of all existing significant mechanical, electrical and electronic damage on the vehicle. Moreover, dealers are required to disclose defects on a Wisconsin Buyers Guide form that is displayed on the vehicle at the time it is offered for sale. Wis. Admin. Code § Trans 139.04(4) and (5).

The Claimant in this matter began experiencing problems with the vehicle the same day she purchased it from the Dealer. [REDACTED] attempted to notify the Dealer within a reasonable time, but the Dealer had gone out of business. The Dealer should have been properly licensed, should have discovered the problems with the vehicle during a reasonable presale inspection, and should have disclosed them on a Wisconsin Buyer's 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 when it was offered for sale. Either way, the Dealer's actions constitute a violation of Wis. Admin. Code § Trans 139.04(4) and (5).

Furthermore, the Dealer's direct sale of the vehicle to a retail buyer violated Wis. Admin. Code § Trans 138.027(2), which prohibits wholesalers from selling motor vehicles to retail buyers.

The violations of Wis. Admin. Code § Trans 139.04(4) and (5), and § Trans 138.027(2), in turn, constitute violations of Wis. Stat. § 218.0116(1)(gm), which is identified under Wis. Admin. Code § Trans 140.21(1)(c)1. The Claimant sustained a loss as a result of these violations, which is the amount she paid to have the vehicle repaired.

CONCLUSIONS OF LAW

1. [REDACTED] claim arose on June 15, 2023, the day she purchased the vehicle from the Dealer. The surety bond issued to the Dealer by the Hudson Insurance Company was a continuous bond effective October 1, 2022.
2. [REDACTED] filed a claim against the motor vehicle dealer bond of the Dealer on January 3, 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 an act 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 \$5,449.98. 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 Oasis Auto Sales, LLC, is APPROVED in the amount of \$5,449.98. The Hudson Insurance Company shall pay [REDACTED] this amount for her loss attributable to the actions of Oasis Auto Sales, LLC.

APPEAL RIGHTS FOLLOW

Dated at Madison, Wisconsin on October 11, 2024.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
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By: /s/
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.