



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

In the Matter of Claims Against the Dealer Bond
of BLL Ventures, LLC

Case No: DOT-20-0022

FINAL DETERMINATION

On August 13, 2020, Stephanie Dufner filed a claim with the Wisconsin Department of Transportation (Department) against the motor vehicle dealer bond of BLL Ventures, 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 Reporter, a newspaper published in Fond du Lac, Wisconsin, on September 21, 2020. The notice informed other persons who may have claims against the Dealer to file them with the Department by November 20, 2020. No additional claims were filed. On February 8, 2021 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:

BLL Ventures, LLC, by

Luke Amend
W1714 Watson Court
Green Lake, WI 54941

MMG Business Holdings, LLC
N7031 County Road E
Ripon, WI 54971-9517

Travelers Casualty and Surety Company of America
One Tower Square
Hartford, CT 06183

Stephanie Dufner
121 Hass Circle, #2
Fond du Lac, WI 54935

FINDINGS OF FACT

1. BLL Ventures, LLC (Dealer), is licensed by the Wisconsin Department of Transportation as a motor vehicle dealer. The Dealer's facilities were last located at 503 E. Fond du Lac Street, Ripon, Wisconsin. The Dealer surrendered its license and went out of business on or about June 1, 2020.

2. The Dealer has had a surety bond in force satisfying the requirements of Wis. Stat. § 218.0114(5) since September 8, 2019 (Bond # 107149177 from Travelers Casualty and Surety Company of America).

3. On April 16, 2020 the Department of Transportation (Department) issued a non-compliance letter to the Dealer advising the Dealer that it cannot operate in any capacity away from the licensed location at 503 E. Fond du Lac St., Ripon, WI.

4. On April 24, 2020, the Dealer sold a 2005 Mercury Mariner automobile, vehicle identification number 4M2CU571X5DJ05734 (the vehicle) to Claimant, Stephanie Dufner (Dufner).

5. The vehicle was sold to Ms. Dufner at a location other than at the licensed dealership. Specifically, on April 24, 2020 the Dealer was operating at 434 Oshkosh St. in Ripon, WI.

6. Ms. Dufner paid \$3,013, including tax and registration fees for the 2005 Mercury Mariner, VIN 4M2CU571X5DJ05734 (the vehicle).

7. The Wisconsin Buyers Guide had not been displayed on the vehicle prior to or at the time Ms. Dufner purchased the vehicle and a full and complete copy of the Buyers Guide was not given to her at the time of purchase.

8. The Claimant immediately began to experience problems with the vehicle upon purchasing it; so, she took it to J & K Summerfield Aligning Service for an evaluation. The mechanic who inspected the vehicle noted the following problems: slipping transmission at highway speeds, rusted/rotted underbody and frame, leaking rear differential, bad outer tie rod, and issues related to the exhaust system. The estimate to repair these problems was \$4,058.

9. It was only after Ms. Dufner purchased the vehicle and made the Dealer aware of the problems with the vehicle that the Dealer provided a completed Wisconsin Buyers Guide that disclosed the following vehicle conditions: abnormal noise or vibration; a gauge or device indicating a system problem; and frame or structural portion of unibody not legal. Further explanation in the Buyer's Guide indicated rust on quarter panels, rot on underbody – holes, check engine light on, emission light on, and vibration in trans at highway speed idle.

10. On May 26, 2020, Ms. Dufner filed a complaint with the Department's Dealer Section against the Dealer. The investigator for the Department assigned to the complaint was unable to resolve the matter with the Dealer.

11. On August 17, 2020, Ms. Dufner filed a claim against the surety bond of the Dealer with the Department of Transportation. The Bond Claim form set forth a claim for \$3,500 for the cost of the vehicle and fees in the amount of \$6,010, which Dufner represented was the cost of the needed repairs for the vehicle.

12. Stephanie Dufner's claim arose on April 24, 2020, 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 Travelers Casualty and Surety Company of America 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.

Under Wis. Stat. §218.0116(1), a license may be denied, suspended or revoked on any of the following grounds:

...

(bm) Willful failure to comply with any provision of ss. 218.0101 to 218.0163 or any rule or regulation promulgated by the licensor under ss. 218.0101 to 218.0163.

...

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

...

The claimant in the present matter has asserted a loss associated with purchasing a vehicle that required significant repairs to operate safely. 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.

Under Wis. Admin. Code § Trans 139.04(4) and (5), a dealer and salesperson are required to disclose in writing "significant existing mechanical defects" in used vehicles offered for sale that can be discovered during a reasonable pre-sale inspection. 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. Further, the Dealer is required to provide a copy of the disclosure, or Wisconsin Buyer's Guide, to the purchaser at the time of sale. Wis. Admin. Code §§ Trans 138.04(1)(e), 139.04(5) and 139.04(6).

The claimant, Ms. Dufner, purchased the vehicle in this matter for her own personal use but with the intent of putting it in her mother's name, Lorri Jensen. Because Dufner's mother was not present, the Dealer's salesperson encouraged Ms. Dufner to execute the purchase documents in her mother's name and Ms. Jensen confirmed she authorized Ms. Dufner to sign on her behalf. The vehicle was sold to Ms. Dufner at a location other than at the licensed dealership contrary to Wis. Admin. Code § Trans 138.03(1)(c) and contrary to a Department April 16, 2020 non-compliance letter. Further, Ms. Dufner asserts that the Dealer did not disclose all the significant mechanical and structural defects associated with the vehicle at the time of purchase, that the Wisconsin Buyer's Guide was not displayed on the vehicle and that a completed copy of the Buyer's Guide was not given to her at the time of purchase. Although the sales contract stated that the vehicle was not legal for highway use, she asserts the salesperson reassured her that the condition was repairable.

Ms. Dufner began experiencing problems with the vehicle immediately after she purchased it from the Dealer. The problems she 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 constitute a violation of Wis. Admin. Code §§ Trans 138.04(1)(e), 139.04(5) and (6)(a). A violation of any of these sections, in turn, constitutes a violation of Wis. Stat. §§ 218.0116(1)(bm) and/or (gm). Wis. Stat. §§ 218.0116(1)(bm) and (gm) are both sections identified in Wis. Admin. Code § Trans 140.21(1)(c)1. Stephanie Dufner sustained a loss as a result of these violations. Although Ms. Dufner's Bond Claim form asserted two different amounts for her loss, including \$3,500 for the purchase price or \$6,010 for the amount to repair the vehicle, the actual amount of the claimed loss is \$3,013, including taxes and fees, which is the listed purchase price of the vehicle.

CONCLUSIONS OF LAW

1. The claim of Stephanie Dufner arose on April 24, 2020, the day she purchased the subject vehicle from the Dealer. The surety bond issued to the Dealer by Travelers Casualty and Surety Company of America covers a one-year period commencing on September 8, 2019. The claim arose during the period covered by the surety bond.

2. Stephanie Dufner filed a claim against the motor vehicle dealer bond of the Dealer on August 17, 2020. 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. Stephanie Dufner's loss was caused by an act of the Dealer that would be grounds for suspension or revocation of its motor vehicle dealer license. Stephanie Dufner has supplied documentation to support a claim in the amount of \$3,013. 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.

ORDER

The claim filed by Stephanie Dufner against the motor vehicle dealer bond of BLL Ventures, LLC, is APPROVED in the amount of \$3,013.00. Travelers Casualty and Surety Company of America shall pay Stephanie Dufner this amount for her loss attributable to the actions of BLL Ventures, LLC.

Dated at Madison, Wisconsin on March 18, 2021.

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: 

Brian K. Hayes
Division Administrator