



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

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In the Matter of Claims Against the Dealer Bond  
of P and B Auto Sales and Services, LLC

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Case No: DOT-20-0028

FINAL DETERMINATION

On October 16, 2020, Claimants Michael and Jodi Slowiak (Claimants) filed a bond claim with the Wisconsin Department of Transportation (Department) against the motor vehicle dealer bond of P and B Auto Sales and Service, 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 Sheboygan Press, a newspaper published in Sheboygan County, Wisconsin, on November 16, 2020. The notice informed other persons who may have claims against the Dealer to file them with the Department by January 15, 2021. No additional claims were filed. A Preliminary Determination was issued on March 19, 2021 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:

P and B Auto Sales and Service, LLC, by

Paul J. Geib  
W7270 County Road F  
Cascade, WI 53011

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

Michael and Jodi Slowiak  
339 Clay Street  
Kiel, WI 53042

## FINDINGS OF FACT

1. P and B Auto Sales and Service, LLC (Dealer), is licensed by the Wisconsin Department of Transportation as a motor vehicle dealer. The Dealer's facilities are located at W7270 County Road F, Cascade, Wisconsin.
2. The Dealer has had a continuous bond in force satisfying the requirements of Wis. Stat. § 218.0114(5) since April 18, 2017 (Bond # 63165024 from Western Surety Company).
3. On April 26, 2019, the Dealer sold a 2005 Jeep Cherokee automobile, vehicle identification number 1J4GR48K65C552054 (the vehicle) to Claimants, Michael and Jodi Slowiak (Claimants).
4. The Wisconsin Buyers Guide displayed on the vehicle at the time Claimants purchased the vehicle did not disclose any defects and the Dealer informed the Claimants that there was a 30-day warranty on the vehicle.
5. The Claimants began to experience problems with the vehicle ignition immediately after purchasing it and later discovered problems with the front struts, right front wheel bearing, right front control arm and ball joint and the rear shocks. The Claimants notified the Dealer of the issues and the Dealer agreed to fix the problems.
6. After months of delay, the Dealer refused to fix the vehicle and told the Claimants to take the vehicle somewhere else to be repaired, which they did. The cost to repair the vehicle, including parts and labor, totaled \$1,244.22.
7. On August 1, 2020, the Claimants 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.
8. In August 2020, the Department contacted the prior owner of the vehicle and inquired of her whether she had experienced any problems with the vehicle prior to selling it. The prior owner reported a number of problems with the vehicle, including loose ball joints, bad shocks and struts, leaking coolant and issues with steering.
9. On October 19, 2020, the Claimants 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 \$1,244.22 for the cost of the parts and labor to repair the vehicle.
10. The Claimants' claim arose on August 26, 2019, the day they 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 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.

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

...

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

...

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

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. Moreover, Dealers are required to 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. Wis. Admin. Code § Trans 139.04(4) and (6)(a)1. 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 Claimants in this matter began experiencing problems with the vehicle immediately after they purchased it from the Dealer. The Claimants notified the Dealer within a reasonable time. In addition, 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. Michael and Jodi Slowiak 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 \$1,244.22.

#### CONCLUSIONS OF LAW

1. The claim of Michael and Jodi Slowiak arose on August 26, 2019, the day they purchased the subject vehicle from the Dealer. The surety bond issued to the Dealer by Western Surety Company covers a one-year period commencing on April 18, 2019. The claim arose during the period covered by the surety bond.
2. Michael and Jodi Slowiak filed a claim against the motor vehicle dealer bond of the Dealer on October 19, 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. Michael and Jodi Slowiak’s loss was caused by an act of the Dealer that would be grounds for suspension or revocation of its motor vehicle dealer license. Mr. and Mrs. Slowiak have supplied documentation to support a claim in the amount of \$1,244.22. 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.

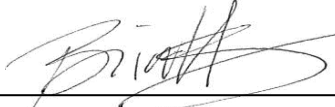
ORDER

The claim filed by Michael and Jodi Slowiak against the motor vehicle dealer bond of P and B Auto Sales and Service, LLC, is APPROVED in the amount of \$1,244.22. Western Surety Company shall pay Michael and Jodi Slowiak this amount for their loss attributable to the actions of P and B Auto Sales and Service, LLC.

Dated at Madison, Wisconsin on April 21, 2021.

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DIVISION OF HEARINGS AND APPEALS  
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By: \_\_\_\_\_



Brian K. Hayes  
Division Administrator