



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

In the Matter of Claims Against the Dealer Bond
of Trucks 4 U

Case No.: TR-08-0040

FINAL DECISION

On February 7, 2008, an employee of the Division of Motor Vehicles of the Department of Transportation filed a claim with the Wisconsin Department of Transportation (Department) against an irrevocable letter of credit issued to Trucks 4 U. The claim along with documents gathered by the Department during its investigation of the claim was referred to the Division of Hearings and Appeals. The Administrative Law Judge issued a Preliminary Determination in this matter on December 5, 2008. 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:

Wisconsin Department of Transportation
Division of Motor Vehicles
Revenue Accounting
P.O. Box 7336
Madison, WI 53707-7336

Laura I. Said
Trucks 4 U
916 Blake Street
Blanchardville, WI 53516-9785

Woodford State Bank
403 West 8th Street
P.O. Box 766
Monroe, WI 53566

FINDINGS OF FACT

1. Trucks 4 U (Dealer) was a motor vehicle dealer licensed by the Wisconsin Department of Transportation (Department) pursuant to Wis. Stat. § 218.0111. The Dealer's facilities were located at 916 Blake Street, Blanchardville, Wisconsin. The Dealer is no longer in business.

2. The Dealer has had a series of irrevocable letters of credit (ILOC) satisfying the requirements of Wis. Stat. § 218.0111(5) beginning on November 12, 2001. During the period that the claim filed by the Department arose, ILOC #35965 issued by the Woodford State Bank was in effect. ILOC #35965 was in effect from September 8, 2004 until September 8, 2005.

3. Between February 4, 2005, and August 25, 2005, the Dealer submitted to the Department's Division of Motor Vehicles (DMV) 32 Wisconsin Title and Registration Applications (MV-11) for vehicles that it sold to retail customers. Along with the MV-11 forms the Dealer sent checks to cover the title and registration fees for the vehicles. The checks were drawn on an account from the Woodford State Bank. The Woodford State Bank returned the checks to the DMV. Thirty of the checks were returned stamped "non-sufficient funds" and the other two were returned stamped "closed account." The total amount of the checks is \$1836.50. The DMV also assessed a \$20.00 returned check charge for nine of the checks.

4. On February 7, 2005, the DMV submitted a claim against the surety bond of the Dealer in the amount of \$2,017.50. This figure represents the sum of the returned checks and the \$180.00 returned check charges.

5. The Dealer's failure to submit the required fees along with the MV-11s constitutes a violation of Wis. Stat. § 342.06(1). A violation of Wis. Stat. § 342.06(1), in turn constitutes a violation of Wis. Stat. § 218.0116(1)(gm) (having violated any law relating to the sale, lease, distribution, or financing of motor vehicles).

6. The loss sustained by the DMV was caused by an act of the Dealer that would be grounds for the suspension or revocation of its motor vehicle dealer license. Accordingly, the claim is allowable. The DMV has provided documentation to support a claim in the amount of \$2,017.50.

7. The DMV's claim arose during the time period between February 4, and August 25, 2005. The bond claim was filed within three years of the ending date of the one-year period ILOC #35965 issued by the Woodford State Bank was in effect and is, therefore, a timely claim.

CONCLUSIONS OF LAW

1. The DMV's claim arose during the time period between February 4 and August 25, 2005. ILOC #35965 issued to Trucks 4 U by the Woodford State Bank covers a one-year

period commencing on September 4, 2004. The claim arose during the period covered by ILOC #35965.

2. The DMV filed a claim against the motor vehicle dealer bond of Trucks 4 U on February 7, 2008. The bond claim was filed within three years of the last day of the period covered by ILOC #35965. Pursuant to Wis. Admin. Code § Trans 140.21(1)(d) the claim is timely.

3. The DMV's loss was caused by an act of Trucks 4 U which would be grounds for suspension or revocation of its motor vehicle dealer license. Pursuant to Wis. Admin. Code § Trans 140.21(1)(c), the claim is allowable. The DMV has provided documentation to support a claim in the amount of \$2,017.50.

4. The Division of Hearings and Appeals has authority to issue the following order:

ORDER

The claim filed by the DMV against the motor vehicle dealer bond of Trucks 4 U is APPROVED in the amount of \$2,107.50. The Woodford State Bank shall pay the DMV this amount for his loss attributable to the actions of Trucks 4 U.

Dated at Madison, Wisconsin on January 6, 2009.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705-5400
Telephone: (608) 266-7709
FAX: (608) 264-9885

By: _____

Mark J. Kaiser
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 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 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 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
4802 Sheboygan Avenue, Room 115B
Wisconsin Department of Transportation
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.