



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

In the Matter of the Motor Vehicle Dealer License
of Napa of Mosinee

Case No.: TR-06-0007

FINAL DECISION

On March 9, 2006, the Division of Motor Vehicles of the Department of Transportation (Department) filed a complaint with the Division of Hearings and Appeals alleging that Napa of Mosinee failed to keep a \$50,000 surety bond or letter of credit in force in violation of Wis. Stat. § 218.0114(5)(a). Based on this allegation the Department is seeking an order suspending the motor vehicle dealer license of Napa of Mosinee. Pursuant to due notice, a hearing was conducted on April 18, 2006, in Madison, Wisconsin. Mark J. Kaiser, Administrative Law Judge, presided.

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

Napa of Mosinee
1201 Western Avenue
Mosinee, WI 54455

No appearance

Wisconsin Department of Transportation, by

Attorney Charles Kernats
Department of Transportation
P. O. Box 7910
Madison, WI 53707-7910

The Administrative Law Judge issued a proposed decision on May 16, 2006. No objections to the Proposed Decision were received. The Department of Transportation filed a letter dated May 23, 2006, in support of the Proposed Decision. The Proposed Decision of the Administrative Law Judge is hereby adopted as the Final Decision in this matter.

Findings of Fact

The Administrator finds:

1. Napa of Mosinee is a motor vehicle dealer conducting business at 1201 Western Avenue, Mosinee, Wisconsin. Napa of Mosinee holds a motor vehicle dealer license issued by the Department of Transportation (Department).
2. Motor vehicle dealers are required by Wis. Stat. § 218.0114(5)(a) to maintain a \$50,000 surety bond or letter of credit as a condition of obtaining and maintaining a motor vehicle dealer license.
3. West Bend Mutual Insurance Company issued a Cancellation Memo related to the bond of Napa of Mosinee on June 6, 2005. The Cancellation Memo informed the Department that effective August 10, 2005, the motor vehicle bond issued to Napa of Mosinee was cancelled.
4. Napa of Mosinee has not provided evidence of a replacement surety bond or irrevocable letter of credit to the Department.

Conclusions of Law

The Administrator concludes:

1. Pursuant to Wis. Stat. § 218.0116(1)(d), failure to maintain the surety bond or letter of credit required by Wis. Stat. § 218.0114(5)(a) Stats., is grounds for the suspension of the license of a motor vehicle dealer license.
2. Pursuant to Wis. Stat. §§ 218.0116(4)(c) and 227.43(1)(bg), the Division of Hearings and Appeals has the authority to issue the following order.

Order

The Administrator orders:

The motor vehicle dealer license of Napa of Mosinee is suspended and shall remain suspended unless and until Napa of Mosinee provides to the Department of Transportation proof

of the existence of a surety bond or irrevocable letter of credit in compliance with Wis. Stat. § 218.0114(5)(a) effective retroactive to August 10, 2005. This order shall be effective ten days from the date of the final order in this matter.

Dated at Madison, Wisconsin on June 8, 2006.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Telephone: (608) 266-7709
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By: _____
DAVID H. SCHWARZ
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 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. 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.