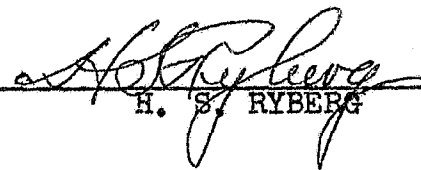


STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 1 - 1954
Mrs. Mike Nelson
Secretary of State

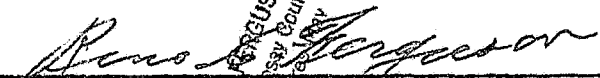
AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

H. S. Ryberg, being first duly sworn, deposes and says that at the City of South Saint Paul, in the County of Dakota, on the 1st day of December, 1954, he served the attached order upon A. F. Schmidt, doing business as Schmidt Motor Sales, the person therein named, by handing to and leaving with him a true and correct duplicate original of such order.


H. S. RYBERG

Subscribed and sworn to before me this
1 day of Dec., 1954


Notary Public, Ramsey County, Minn.

My commission expires 6/18/56

MINN
Notary Public, Ramsey County, Minn.
Commission Expires 6/18/56

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STATE OF MINNESOTA
BEFORE THE SECRETARY OF STATE
AND
MOTOR VEHICLE REGISTRAR

IN THE MATTER OF:

Raymond J. Hans,

Complainant

vs.

A. F. Schmidt, doing business
as Schmidt Motor Sales

Respondent

DECISION
AND
ORDER

The above entitled matter came on for hearing before the undersigned, Secretary of State and Registrar of Motor Vehicles, at the State Capitol, Saint Paul, Minnesota on September 16, 1954. Messrs. Clarence O. Holten and James S. Eriksson appeared as Attorneys for the complainant. Grannis and Grannis, Esq., and Luther M. Stalland, Esq. appeared as Attorneys for the respondent. J. A. A. Burnquist, Attorney General, by Joseph J. Bright, Assistant Attorney General, appeared as Attorneys for the Secretary of State and Registrar of Motor Vehicles.

During the course of the hearing, motions were made to dismiss the proceedings and the ruling thereon was reserved. At this point such motions are hereby denied.

The Secretary of State and Registrar of Motor Vehicles having reviewed the evidence adduced at the hearing, having considered the arguments of counsel as set forth in their briefs and on all the files and proceedings herein makes the following

FINDINGS OF FACT

1. The complainant at all times herein stated was an investigator and an undisclosed agent of the Minnesota Automobile Dealers Association, an organization of motor vehicle dealers licensed to sell new and unused motor vehicles. The

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complainant had been a salesman of motor vehicles and was familiar with the business of selling new and unused and used motor vehicles.

2. The respondent is in the business of selling motor vehicles in the State of Minnesota and his place of business is at 1035 North Concord Street, South St. Paul, Minnesota, and during the year 1954 was duly licensed and authorized to sell used motor vehicles pursuant to M. S. 1953, § 168.27.

3. On or about April 20, 1954, the complainant filed a complaint with the Secretary of State and Registrar of Motor Vehicles charging the respondent with having sold him a new and unused 1954 Buick Super Four-door automobile Serial No. A5001741 without being authorized by law so to do. Thereupon a copy of such complaint was duly served upon the respondent by the Secretary of State and Registrar of Motor Vehicles who noticed for hearing and determination the matters involved in said complaint as required by M. S. 1953, § 168.27, Subd. 7.

4. On or about April 13, 1954, the complainant purchased from the respondent a 1954 Buick automobile Serial No. A5001741 for the sum of \$2,900 including 1954 license plates. Delivery of such motor vehicle was made on or about April 17, 1954 and the order consummating such transaction was written as a "used car order" and contained the following endorsement thereon:

"This unit carries the conventional new car warranty for 4,000 miles or ninety days. Buick warranty to be issued."

A Buick owner service policy and a Buick owner's battery service policy issued by Mason Motor Company, Franklin, North Carolina, was given the complainant by the respondent.

5. That at the time of such sale of the 1954 Buick automobile by the respondent to the complainant its speedometer was disconnected, the speedometer glass was cracked and the vehicle had been repaired and repainted by the respondent in order to remove

dents thereon caused by gravel. The speedometer mileage at the time of the sale was 229 miles and the tires and upholstery of such car showed that it had been in use.

6. The motor vehicle described herein was originally registered in Georgia in the name of Habersham Motors, Cornelia, Georgia, who under date of April 2, 1954 transferred the same to North Side Motors, 800 West Broadway, Minneapolis, Minnesota, who caused the same to be registered in its name in Minnesota under date of April 2, 1954. Subsequently, this motor vehicle was transferred to Freemont Motors, Inc., 1201 Broadway, Minneapolis, Minnesota under date of April 2, 1954 and then to Schmidt Motor Sales, 1035 North Concord, South St. Paul under date of April 14, 1954 and to Raymond J. Hans, the complainant herein, under date of April 16, 1954. Raymond J. Hans transferred said motor vehicle to the W. R. Stephens Company, 25 South 10th Street, Minneapolis, Minnesota, under date of June 15, 1954.

CONCLUSIONS

That the motor vehicle sold by the respondent to the complainant was a used motor vehicle and its sale by the respondent to the complainant was not in violation of any of the provisions of M. S. 1953, § 168.27.

ORDER

That the complaint of the complainant be, and the same is, hereby dismissed.

Dated this 1st day of December, 1954 at Saint Paul, Minnesota.


Secretary of State and
Registrar of Motor Vehicles

MEMORANDUM

That though the automobile in question was sold by the respondent to the complainant with the same warranties that are

usually given to the purchaser of a new and unused automobile, the evidence herein clearly discloses that the motor vehicle, though a current model, had been used and driven for considerably more mileage than that which appeared on the speedometer. The evidence also clearly discloses that an inspection of the automobile revealed that it had been in use. Though some of the evidence is conflicting, the weight thereof appears to indicate that the motor vehicle was sold to the complainant by the respondent as a used car and no representations were made to the complainant that it was anything but an automobile that had been in use which was the reason it could be sold at a discount substantially below that of the price of a similar automobile that was new and unused.

Mrs. M. H.
Mrs. Mike Holm