

AFFIDAVIT OF SERVICE

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

STATE OF MINNESOTA )  
COUNTY OF RAMSEY ) SS

H. S. Ryberg, being first duly sworn, deposes and says that at the City of Minneapolis, in the County of Hennepin, on the 1st day of December, 1954, he served the attached order upon Louis J. Goldie and William S. Foreman, partners, doing business as Goldie Motor Sales, the persons therein named, by handing to and leaving with them a true and correct duplicate original of such order.

*H. S. Ryberg*  
H. S. RYBERG

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

*Rene C. [Signature]*  
Notary Public, Ramsey County, Minn.

My commission expires 6/13/54.

RENE C. [Signature]  
Notary Public, Ramsey County, Minn.  
My Commission Expires 6/13/54

12346

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

IN THE MATTER OF:

Raymond J. Hans,

Complainant,

vs.

Louis J. Goldie and William  
S. Foreman, Partners, doing  
business as Goldie Motor  
Sales

Respondents

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 17, 1954. Messrs. Clarence O. Holten and James S. Eriksson appeared as attorneys for the complainant. Samuel Saliterman, Esq. appeared as attorney for the respondents. J. A. A. Burnquist, Attorney General and 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. On or about April 20, 1954, the complainant filed a complaint with the Secretary of State and Registrar of Motor Vehicles charging the respondents with having sold him a new and unused 1954 Chevrolet Four-door automobile, bearing Serial No. B545-049194 without

being authorized by law so to do. Thereupon a copy of such complaint was duly served upon the respondents by the Secretary of State and Registrar of Motor Vehicles who noticed for hearing and determination the matters involved in said complaint, all as required by M. S. 1953, § 168.27, Subd. 7. The decision and order herein results from such hearing.

2. The complainant at all times herein stated was an investigator and the undisclosed agent of the Minnesota Automobile Dealers Association, an organization of Minnesota motor vehicle dealers duly licensed to sell new and unused motor vehicles. Said complainant had been a salesman of motor vehicles and was familiar with the business of selling new and unused and used motor vehicles.

3. The respondents are in the business of selling motor vehicles in the State of Minnesota and their place of business is at 2900 E. Lake Street, Minneapolis, Minnesota, and during the year 1954 were duly licensed and authorized to sell used motor vehicles pursuant to M. S. 1953, § 168.27.

4. On or about April 19, 1954, the complainant purchased from the respondents a 1954 four-door Chevrolet automobile, Serial No. B545-049194 for \$1775 exclusive of the license. Delivery of such motor vehicle was made shortly thereafter and the order consummating the transaction was written on a "used car order".

5. At the time of such sale of said 1954 Chevrolet automobile the mileage on the speedometer registered 2.7 miles and the respondents represented to the complainant that said motor vehicle was a new and unused automobile.

6. Said 1954 Chevrolet was originally registered in the state of Illinois in the name of General Kar Inc. and title was transferred from that concern to the respondents under date of April 9, 1954. Under date of April 29, 1954 the motor vehicle was transferred by the complainant to Merit Chevrolet Company, St. Paul, Minnesota.

CONCLUSION

(a) That the 1954 Chevrolet automobile sold by the respondents to the complainant may have been a new and unused motor vehicle at the time of the sale. However, there is a reasonable doubt that the Legislature intended that sale of motor vehicles, under such circumstances, constituted a violation 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 St. Paul, Minn.

Mrs. Mike Holm  
Secretary of State and  
Registrar of Motor Vehicles

MEMORANDUM

Respondents for the year 1954 had complied with the statutory requirements of M.S. 1953, #168.27 relating to authority to engage in the business of selling used motor vehicles. Because the provisions of such statute relating to the sale of new and unused motor vehicles is vague and indefinite, there is a reasonable doubt that respondents had not complied with the provisions of such statute.

Under the customs and practice prevalent in the motor car industry, the 1954 Chevrolet was originally sold by the factory to a franchised Chevrolet dealer. Such motor vehicle dealer, if licensed in Minnesota, is required to be licensed with authority to engage in the business of selling new and unused motor vehicles. Had such dealer, if licensed in Minnesota, observed the requirements of M.S. 1953, #168.27, the motor vehicle would never have come into the possession of the respondents so that they could be charged with violations of the statute by an agent of the Minnesota Motor Vehicle Dealers Association.

It is evident from the evidence in this proceeding that the dealers of new and unused motor vehicles and the dealers of used motor vehicles are engaged in an economic conflict brought about by an oversupply of automobiles. The used car dealers, such as the respondents, are no more responsible for economic conditions existing in the automobile markets than are the new and unused car dealers. If the new and unused car dealers complied with all of the requirements of Minnesota law by selling their automobiles only to consumers or to other dealers of new and unused motor vehicles having franchises to sell the same makes of automobiles, there could be no complaints of violations of Minnesota law by a licensed dealer of used cars.

Under such circumstances, it appears to the Secretary of State and Registrar of Motor Vehicles that it would be unjust and inequitable to hold that there had been a violation of M.S. 1953, #168.27.

No one has been injured or damaged by the respondents in selling the automobile referred to herein. The respondents are reputable dealers of motor vehicles, abide by their contract commitments and appear to have acted in good faith in the transactions disclosed by the evidence.

The evidence, in my opinion, reveals the need for enactment of a law making it unlawful, punishable perhaps by revocation of licenses, for any dealer, new or used car dealers, to tamper with the speedometer of a motor vehicle by setting it back to zero or to a reading of lesser mileage than the actual mileage the motor vehicle was driven.

The evidence, in my opinion, also discloses the need for clarification of M.S. 1953, #168.27 so that there will be a clear definition of what constitutes a new and unused motor vehicle.

This memorandum is made a part of the decision and order.

Mrs. M. H.

*Mrs. Mike Holm*

12346