

**4BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS**

**In the Matter of the Kansas Nonresident)
Insurance Producer's License of)
KIM DIANE HAYES BUTLER)
NPN # 1055487)**

Docket No. 94911

**SUMMARY ORDER
REFUSAL TO RENEW AND REVOCATION
(Pursuant to K.S.A. 40-4909 and K.S.A. 77-501 *et seq.*)**

Pursuant to the authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 40-4909 and K.S.A. 77-501 *et seq.*, the Commissioner hereby **REVOKES** and **REFUSES RENEWAL OF** the Kansas nonresident insurance producer's license of **KIM DIANE HAYES BUTLER** ("Respondent"). This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for a hearing is made.

Findings of Fact

1. Respondent was licensed as a Kansas nonresident insurance producer on January 24, 2007. Her license expired on June 30, 2022.
2. Respondent's address of record is [REDACTED] Nacogdoches, Texas [REDACTED]
3. On June 30, 2022, Respondent submitted a renewal application for her Kansas nonresident insurance producer license ("Application") to the Kansas Insurance Department ("Department").
4. Respondent answered "Yes" to Question 2 of the Background Questions on the Application which asks, "Have you been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department?" "Involved" means having a license censured, suspended, revoked, canceled,

terminated; or, being assessed a fine, placed on probation, sanctioned or surrendering a license to resolve an administrative action. "Involved" also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. "Involved" also means having a license, or registration, application denied or the act of withdrawing an application to avoid a denial. INCLUDE Any business so named because of your actions in your capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company. You may exclude terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee.

5. The Respondent disclosed administrative actions against her insurance license as well as actions issued against her securities license. The following administrative actions demonstrate that the Respondent has engaged in dishonest or fraudulent practices and has not demonstrated trustworthiness in the conduct of business. There have also been documented violations of insurance laws or regulations of another state and violations of provisions of the Kansas Insurance Code or corresponding regulations.

- a. On or about June 27, 2016, the State of Washington Department of Financial Institutions Securities Division entered into a Consent Order with the Respondent ordering the Respondent to cease and desist from violating any securities laws and to pay a fine in the amount of \$1,950. This Consent Order was entered in connection with the Washington's previously issued Statement of Charges and Notice of Intent to Enter Order to Cease and Desist, To Impose Fines and to Charge Costs. While the Consent Order did not admit or deny the finding of facts and conclusions of law alleged in the Statement, Washington alleged that the Respondent sold unregistered securities and was not registered with the state of Washington as a securities

salesperson or broker-dealer and assessed a penalty based on the violation of Washington securities law.

- b. On or about March 6, 2019, the Respondent entered into an Administrative Consent Agreement and Order with the state of Michigan Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial Licensing Bureau, Complaint Number 336791. As part of this agreement, the Respondent paid a civil fine in the amount of \$2,000 to resolve the matter of the pending cease and desist order ordered against her. The allegations against the Respondent were selling unregistered securities while being unregistered by state of Michigan. While the Respondent did not admit or deny the allegations of wrongdoing, she voluntarily entered into the Consent Agreement and Order to resolve the proceedings.
- c. On or about May 31, 2019, the Respondent entered into a settlement order with the Commonwealth of Virginia State Corporation Commission, Case No. SEC-2019-00014. The allegations which led to this settlement order included that the Respondent sold unregistered securities without holding a registration with the state of Virginia as well. As part of this settlement, while the Respondent did not admit or deny any of the allegations, she was ordered to pay over \$11,000 in restitution and to provide a copy of the order to Virginia investors.
- d. On or about September 9, 2020, the Texas State Securities Board issued a Disciplinary Order against the Respondent, Order Number IC20-REV-05. This disciplinary order found that the Respondent violated the securities registration requirements in the state of Texas and breached her fiduciary duty. The Respondent agreed, in efforts to settle the matter, to allow the revocation of her registration as

an investment adviser representative and consented to a cease-and-desist order prohibiting her from engaging in fraudulent conduct and selling unregistered securities.

- e. On or about August 13, 2021, the Respondent entered into a Consent Order with the Colorado Securities Commissioner, Case No. 2021-CDS-015. In this order, the Respondent agreed “not to take any action or to make, or permit to be made, any public statement denying, directly or indirectly, any Finding or Conclusion in the Consent Order or creating the impression that said Consent Order lacks a factual basis.” The Consent Order made the following findings of fact: the Respondent failed to make proper disclosures to investors regarding the security being offered, made misstatements and omissions of material facts in connection with the offer/sale/purchase of securities, the Respondent acted in capacity as unlicensed sales representative, the Respondent failed to supervise and have reasonable policies and procedures in place to prevent violations of the Colorado Securities Act and finally that the Respondent engaged in acts, practices or a course of business that operated as a fraud or deceit on investors. The Consent Order permanently banned the Respondent from applying for licensure as an investment adviser as well as associating with any licensed adviser in the conduct of business.
- f. On or about October 11, 2022, the California Department of Insurance issued an order of summary revocation of the Respondent’s unrestricted license and issued a restricted license in its place. The action was issued as a response to the numerous administrative actions taken by other agencies and due to the Respondent’s failure to properly report the actions to the California Department of Insurance. The

California Department of Insurance found that the Respondent lacked integrity, shown incompetency or untrustworthiness in the conduct of business and knowingly or willfully made a misstatement in an application. The Respondent did not admit or deny the findings or conclusions of the California Order.

- g. On or about April 12, 2022, the Louisiana Department of Insurance assessed a fine against the Respondent for failure to report other state action in violation of Louisiana law.
- h. On or about May 19, 2022, the Securities Exchange Commission (“SEC”) issued an order, as the result of a settlement with the Respondent, imposing disgorgement and prejudgment interest. The SEC found that the Respondent made untrue and misleading statements when offering investments, failed to disclose that the investments she was offering were from companies agreeing to compensate her accordingly creating a conflict of interest for the Respondent, and that the Respondent failed to disclose that she was subject to a cease-and-desist order in the state of Washington. As a result of this settlement order, the Respondent in conjunction with her companies were ordered to pay over one million dollars in disgorgement and prejudgment interest. For the purposes of exceptions to discharge in bankruptcy proceedings, the respondent admitted the findings of this order that she was in violation of federal securities laws.
- i. On or about November 17, 2022, the Respondent entered into a Consent Order with the Pennsylvania Insurance Department to address violations of failing to timely notify the Department as to administrative orders from Washington Department of Financial Services Securities Division, the Securities Exchange Commission, the

Michigan Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial License Bureau, the Commonwealth of Virginia State Corporation Commission Division of Securities, Texas State Securities Board, Colorado Securities Commissioner, as well as not properly answering the question regarding administrative action on the renewal applications for licensure. As part of this order, the Respondent agreed not to contest the findings of fact or conclusions of law in further enforcement proceedings.

6. Currently there are additional pending administrative actions against the Respondent's insurance producer licenses in the states of New Hampshire and Texas. On or about March 15, 2022, the Respondent did surrender the agency license for Partners for Prosperity, LLC in lieu of contesting the Texas Department of Insurance's allegations against her agency and agreed that this agency no longer met the requirements for licensure.

7. Of all of these administrative orders against Respondent's professional licenses, only the California administrative action was reported to the Department properly and in a timely fashion.

8. These administrative actions against the Respondent demonstrate fraudulent and dishonest practices as well as the untrustworthiness of the Respondent.

9. Failure to report administrative actions against professional licenses constitute violations of the insurance laws of this state as well as other states.

Applicable Law

K.A.R. 40-7-9 and K.S.A. 40-4905(f)(1)(A)–(C) provides:

Each person or entity licensed in this state as an insurance agent shall report the following to the commissioner within 30 calendar days of occurrence each disciplinary action on the agent's license or licenses by the insurance regulatory agency of any other state or territory of the United States; each disciplinary action on an occupational license held by the licensee, other than an insurance agent's license, by the appropriate regulatory authority of this or any other

jurisdiction; each judgment or injunction entered against the licensee on the basis of a violation of any insurance law or conduct involving fraud, deceit or misrepresentation.

K.S.A. 40-4909(a)(2)(A) provides:

The Commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has violated any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations promulgated thereunder.

K.S.A. 40-4909(8) provides:

The Commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the Commissioner finds that the license holder used any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

K.S.A. 40-4909(b) provides:

The Commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the Commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license.

Policy Reasons

1. It is in the public interest that the license of a producer who has failed to timely disclose administrative actions and injunctions against their professional license to the Department be revoked.

2. It is in the public interest that the license of a producer who has failed to timely disclose administrative actions and injunctions against their professional license to the Department be refused renewal.

3. It is in the public interest that the license of a producer who has committed fraudulent, coercive or dishonest practices or demonstrated untrustworthiness in the conduct of business be revoked.

4. It is in the public interest that the Commissioner refuse renewal of the license application of a producer who has been convicted of misdemeanors of these types and circumstances.

Conclusions of Law

1. The Commissioner has jurisdiction over **KIM DIANE HAYES BUTLER** as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

2. Pursuant to K.S.A. 40-4909(a)(2)(A), the Commissioner finds that Respondent's renewal application for a Kansas nonresident insurance producer's license may be refused because **KIM DIANE HAYES BUTLER** has violated the Kansas Insurance Code, or any rules and regulations promulgated thereunder.

3. the Commissioner finds that Respondent's Kansas nonresident insurance producer's license may be revoked because **KIM DIANE HAYES BUTLER** has violated the Kansas Insurance Code, or any rules and regulations promulgated thereunder.

4. Pursuant to K.S.A. 40-4909(a)(8), the Commissioner finds that Respondent's renewal application for a Kansas nonresident insurance producer's license may be refused because **KIM DIANE HAYES BUTLER** has committed fraudulent and dishonest practices as well as demonstrated untrustworthiness in the conduct of business.

5. Pursuant to K.S.A. 40-4909(a)(8), the Commissioner finds that Respondent's Kansas nonresident insurance producer's license may be revoked because **KIM DIANE HAYES BUTLER** has committed fraudulent and dishonest practices as well as demonstrated untrustworthiness in the conduct of business.

6. Pursuant to K.S.A. 40-4909(b), the Commissioner finds that the insurable interests of the public are no longer properly served under the Kansas nonresident insurance producer's license of **KIM DIANE HAYES BUTLER**.

7. Pursuant to K.S.A. 40-4909(a) and (b), the Commissioner concludes that sufficient grounds exist for the refused renewal of the Kansas nonresident insurance producer's license of **KIM DIANE HAYES BUTLER**.

8. Pursuant to K.S.A. 40-4909(a) and (b), the Commissioner concludes that sufficient grounds exist for revocation of the Kansas nonresident insurance producer's license of **KIM DIANE HAYES BUTLER**.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. The Kansas nonresident insurance producer's license of **KIM DIANE HAYES BUTLER** is hereby **REFUSED RENEWAL** the effective date of this Order.

2. The Kansas nonresident insurance producer's license of **KIM DIANE HAYES BUTLER** is hereby **REVOKED** the effective date of this Order.

3. **IT IS FURTHER ORDERED** that **KIM DIANE HAYES BUTLER** shall **CEASE** and **DESIST** from the sale, solicitation or negotiation of insurance in Kansas and/or receiving compensation deriving from the sale, solicitation or negotiation of insurance in Kansas conducted after the effective date of this Order.

IT IS SO ORDERED THIS 3rd **DAY OF** May **2023, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



VICKI SCHMIDT
COMMISSIONER OF INSURANCE

BY:


Justin L. McFarland
General Counsel

NOTICE AND OPPORTUNITY FOR HEARING

KIM DIANE HAYES BUTLER, within fifteen (15) days (plus 3 additional days for mailing) of service of this Summary Order, you may file with the Kansas Insurance Department a written request for hearing on this Summary Order, as provided by K.S.A. 77-542. In the event a hearing is requested, such request should be directed to:

Mindy Forrer
Kansas Insurance Department
1300 SW Arrowhead Rd.
Topeka, Kansas 66604

Or via email to: mindy.forrer@ks.gov

Any costs incurred as a result of conducting any administrative hearing shall be assessed against the producer/agency who is the subject of the hearing as provided by K.S.A. 40-4909(f). Costs shall include witness fees, mileage allowances, any costs associated with reproduction of documents which become part of the hearing record, and the expense of making a record of the hearing.

If a hearing is not requested, this Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period (plus 3 additional days for mailing) for requesting a hearing. The Final Order will constitute final agency action on the matter.

In the event the Respondent files a petition for judicial review in the District Court, the agency officer designated pursuant to K.S.A. 77-613(e) to receive service of a petition for judicial review on behalf of the Kansas Insurance Department is:

Justin L. McFarland, General Counsel
Kansas Insurance Department
1300 SW Arrowhead Rd.
Topeka, Kansas 66604

Pursuant to K.S.A. 77-607 and 77-612, exhaustion of administrative remedies is a jurisdictional prerequisite to seeking judicial review.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served the above-and-foregoing Summary Order of Revocation on this 3rd day of may 2023, by causing the same to be deposited in the United States Mail, certified, addressed to the following:

Kim Diane Hayes Butler

[REDACTED]

Leawood, KS [REDACTED]

Respondent



Sarah Cowan

Legal Assistant