

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,
OFFICE OF THE MONTANA STATE AUDITOR**

IN THE MATTER OF:

JODY LYNN HANKS, (License No.
100159598)

Respondent.

Case No. INS-2023-00041

**FINAL AGENCY ACTION &
DEFAULT ORDER**

On May 16, 2024, counsel for the Commissioner of Securities and Insurance, Office of the Montana State Auditor (Commissioner or CSI), served a Notice of Proposed Agency Action and Opportunity for Hearing (Notice or NOPAA) on (or Respondent). A copy of the Notice is attached hereto as Exhibit A.

The Notice was delivered May 17, 2024. A copy of the tracking receipt is attached hereto as Exhibit B. The Notice provided Respondent an opportunity for an administrative hearing if requested within 24 days. The deadline for Respondent to request an administrative hearing to challenge the Notice was June 10, 2024. The Notice also warned that failure to respond and request a hearing by the deadline would result in a default order.

More than 24 days have elapsed since service of the Notice and no request for hearing has been received. Therefore, a default order will issue. Admin. R. Mont. 1.3.214.

The Commissioner considered the evidence and exhibits and makes the following determinations:

FINDING OF FACT

1. During the time at issue in this matter Respondent resided in Great Falls, Cascade County, Montana.

2. During the time at issue in this matter Respondent held a Montana Insurance Producer license (#100159598, first issued on October 6, 2016). The Respondent's Producer license expired on February 29, 2024. The Respondent holds a Certified Exchange Producer license (same number as former Producer license, first issued June 28, 2022).

3. During the time at issue in this matter, Respondent was employed by Bern Insurance (Bern) of 201 Smelter Avenue, Great Falls, Montana. Pursuant to an Administrative Services Agreement, Bern was responsible for attending to the health insurance needs of sixteen (16) Hutterite colonies in Montana including the Golden Valley and Hidden Valley colonies located in Golden Valley and Hill counties, respectively. Among Bern's duties was the timely payment of health insurance premiums on behalf of individual members of the colonies.

4. On December 22, 2022, Detective Jacob Tri of the Cascade County Sheriff's Office contacted CSI to report that Kathryn Burton (Burton), Agency Manager for Bern had contacted the Sheriff's Office regarding concerns involving the Respondent. Among Burton's concerns was the possibility of premium theft and Respondent's failure to make timely premium payments for colony members which resulted in cancellation of policies and an attending lack of coverage for specific health care claims.

5. CSI Investigator Amber Treat commenced with further investigation, conducting an interview with Burton and receiving a written statement from Burton on January 18-19, 2023. During the interview and statement, Burton advised that an Administrative Assistant of the Hidden Valley colony was questioning a bill from a healthcare provider which indicated that a colony member, who will be referred to in this Notice as "D" (D), did not have health insurance at the time of service. Bern's research of its financial accounts revealed Respondent had failed to make a timely premium payment despite past-due notices received by Respondent at Bern. Bern promptly contacted the involved insurer, Blue Cross - Blue Shield of Montana (BCBSMT). Together, Bern and BCBSMT determined that in addition to D, there were three (3) other colony members, who will be identified in this Notice as "B", "G" and "E" for whom premiums had not been timely paid resulting in policy cancellations and lapses in coverage. Burton advised that unpaid claims were not covered by Bern's Commercial Liability insurance, but that it was Bern's intention to cover any losses of the involved colony members. Bern subsequently paid the healthcare claims.

6. In conjunction with making the findings set forth in Paragraph 5, Burton assigned the Financial Coordinator at Bern to complete a diligent analysis of Bern financial records including the involved trust accounts. Apart from Respondent's failure to timely pay premiums, Burton advised their analysis revealed, "We have not found any indication that (Respondent) was stealing premium funds from our clients."

7. On January 25, 2023, Investigator Treat conducted a voluntary recorded interview with the Respondent. Respondent left her employment at Bern on or about October 10, 2022. While employed by Bern, Respondent acknowledged it was her responsibility to pay the health insurance premiums for the members of the colonies. The insured colonies would write checks to Bern, those funds were placed in trust, and Bern dealt directly with the insurers delivering premium payment checks. Respondent had full access to the trust account, and she personally used a computer program to write premium checks. Respondent would know when premiums were due based on mailed statements from BCBSMT and other insurers. Respondent estimated that she and another Bern employee who will be identified in this Notice as "J" directly received approximately 400 items of correspondence from insurers regarding the policies monthly. Respondent denied knowledge of missing premium payments and explained that if a payment was missed it was because "there was no money in there (the trust account for the colony at issue)" and she would have to send the colonies reminders that they were "past due" and that their policies were "at risk." Respondent stated she was not aware of any policies being cancelled and could not recall making any premium payments after a policy had been cancelled, advising, "we were pretty on top of it." During its investigation, CSI determined through Burton that the Respondent and "J" were exclusively responsible for separate colonies. It was the sole responsibility of Respondent to make payments for the Hidden Valley and Golden Valley colonies.

8. Investigator Treat conducted a follow-up interview with Burton on January 24, 2024. Contrary to Respondent's assertions, Burton confirmed that BCBSMT policies for colony members B, D, E, and G were cancelled when premiums were not paid.

9. Investigator Treat obtained information and supporting documentary evidence from Jestina Eriksen of BCBSMT (Supervisor - Montana Appeals, DOI, Executive Inquiry and Complaints) setting forth for each of the colonists: dates when premium payments were timely made by the Respondent; when payment reminders were sent to the Respondent at Bern indicative of a missed payment; when cancellation notices were sent to the Respondent at Bern; facts and circumstances regarding new policies obtained after earlier policies were cancelled, and other relevant information maintained by BCBSMT. Investigator Treat's analysis of all the information provided by BCBSMT confirmed that for each of the colonists (B, D, E, and G) there were missed premium payments, policy cancellations, lapses in coverage, and medical bills which were not paid due to these cancellations.

10. Burton provided Bern balance sheets demonstrating trust account balances for each of the involved colonies. The transaction report for Golden Valley Colony indicated there were sufficient funds to pay the premiums of B, E, and G at the time of the payment reminders and policy cancellations. The transaction report for Hidden Valley Colony indicated there were *not* sufficient funds to make a payment on behalf of D in August of 2021; however, by September 13, 2021, sufficient funds had been placed with Bern such that D's premium could be paid by Respondent allowing the policy to stay in effect. Respondent did pay the premium and coverage was reinstated; however, a premium due thereafter was not paid resulting in the cancellation.

CONCLUSIONS OF LAW

1. CSI takes this action under the authority granted by the Montana Insurance Code (Mont. Code Ann. § 33-1-101, *et seq.*), which authorizes CSI to protect insurance consumers and the public interest.

2. After following the procedures provided by Mont. Code Ann. § 33-1-701, and upon a finding that a violation of the Montana Insurance Code has occurred, CSI may impose a fine of up to \$5,000. *See* Mont. Code Ann. § 33-1-317.

3. Mont. Code Ann. § 33-17-1102(1) provides in part, “The insurance producer shall at all times act in a fiduciary capacity and shall in the applicable regular course of business account for and pay the insurance premiums the insurance producer receives to the...insurer...entitled to them.”

4. Respondent violated § 33-17-1102(1) when despite receiving appropriate notices from BCBSMT that such premiums had not been timely paid, and policy cancellation notices, Respondent did not timely pay BCBSMT premiums for health insurance on behalf of insureds B, D, E and G.

5. The Commissioner has a duty to regulate the provision of insurance and to protect the public from harm caused by insurer and insurance producer misconduct. The Commissioner may suspend or revoke an insurance producer license, levy a civil penalty in accordance with § 33-1-317, MCA, or may choose or any combination of those actions, when a licensed insurance producer has:

(a) engaged or is about to engage in an act or practice for which issuance of the license could have been refused §33-17-1001(1)(a), MCA;

(c) violated or failed to comply with a provision of this code...§ 33-17-1001(1)(c), MCA;

(f) in the conduct of the affairs under the license...is incompetent, untrustworthy, financially irresponsible or a source of injury and loss to the public. ...§ 33-17-1001(1)(f), MCA

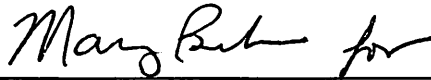
6. Based on the Factual Allegations set forth above, Respondent engaged in conduct inconsistent with the privilege of licensure as proscribed by § 33-17-1001(1)(a), (1)(c), or (1)(f) MCA, and is subject to revocation of, or a refusal to renew or issue any license previously granted by the Commissioner.

FINAL ORDER

THEREFORE, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

1. The Commissioner, considering the gravity, number and scope of offense(s), and the financial loss involved, and to protect the health, safety, and welfare of the public, orders that Respondent's Certified Exchange Producer license is revoked.

DATED this 18th day of June, 2024.

A handwritten signature in black ink, appearing to read "Troy Downing", is written over a horizontal line.

TROY DOWNING

Commissioner of Securities and Insurance,
Montana State Auditor

NOTICE

You are entitled to judicial review of this Order in accordance with § 2-4-702, MCA. Judicial review may be obtained by filing a petition in district court within thirty days after the service of this Order.

CERTIFICATE OF SERVICE

I hereby certify that on June 18, 2024, I caused a true and accurate copy of the foregoing *Final Agency Action and Default Order* to be mailed to:

Jody Lynn Hanks
3805 7th St NE, Trlr 65
Great Falls, MT 59404



TIFFANY HOFFMAN
Paralegal

CARLO CANTY

Legal Counsel

Commissioner of Securities & Insurance,

Office of the Montana State Auditor

840 Helena Avenue

Helena, MT 59601

Phone: (406) 444-2040

Fax: (406) 444-3497

Email: carlo.canty@mt.gov

E-Service: CSI.LegalService@mt.gov

Counsel for the Commissioner of Securities and Insurance

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,
OFFICE OF THE MONTANA STATE AUDITOR**

IN THE MATTER OF:

JODY LYNN HANKS, (License No.
100159598)

Respondent.

Case No. INS-2023-00041

**NOTICE OF PROPOSED AGENCY
ACTION AND OPPORTUNITY FOR
HEARING**

TO: Jody Lynn Hanks
3805 7th St NE, Trailer 65
Great Falls, MT 59404

The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI" or the Commissioner), has cause to believe that Respondent Jody Lynn Hanks (Respondent) has violated the Montana Insurance Code, § 33-1-101, *et seq.*, MCA. The Commissioner proposes to levy a fine of \$1,000 pursuant to § 33-1-317, MCA. The Commissioner has the authority to undertake this action pursuant to the Montana Insurance Code, including §§ 33-1-311, 33-1-317 and 33-2-701, MCA. This is a proposed agency action. Acceptance of the penalty will resolve this matter and it will be deemed a Final Agency Action based on the facts and law set forth. If Respondent chooses not to accept the penalty, she may demand an administrative hearing. The demand for a hearing must be in writing and received by the Commissioner **within 24**

Exhibit A

days of the date this Notice as described in the Statement of Rights below. Failure to timely request a hearing can result in entry of a default order as stated in the Possibility of Default section below.

FACTUAL ALLEGATIONS

1. During the time at issue in this matter Respondent resided in Great Falls, Cascade County, Montana.

2. During the time at issue in this matter Respondent held a Montana Insurance Producer license (#100159598, first issued on October 6, 2016). The Respondent's Producer license expired on February 29, 2024. The Respondent holds a Certified Exchange Producer license (same number as former Producer license, first issued June 28, 2022).

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healthcare provider which indicated that a colony member, who will be referred to in this Notice as “D” (D), did not have health insurance at the time of service. Bern’s research of its financial accounts revealed Respondent had failed to make a timely premium payment despite past-due notices received by Respondent at Bern. Bern promptly contacted the involved insurer, Blue Cross - Blue Shield of Montana (BCBSMT). Together, Bern and BCBSMT determined that in addition to D, there were three (3) other colony members, who will be identified in this Notice as “B”, “G” and “E” for whom premiums had not been timely paid resulting in policy cancellations and lapses in coverage. Burton advised that unpaid claims were not covered by Bern’s Commercial Liability insurance, but that it was Bern’s intention to cover any losses of the involved colony members. Bern subsequently paid the healthcare claims.

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Bern such that D's premium could be paid by Respondent allowing the policy to stay in effect. Respondent did pay the premium and coverage was reinstated; however, a premium due thereafter was not paid resulting in the cancellation.

ASSERTIONS OF LAW

1. CSI takes this action under the authority granted by the Montana Insurance Code (Mont. Code Ann. § 33-1-101, *et seq.*), which authorizes CSI to protect insurance consumers and the public interest.

2. After following the procedures provided by Mont. Code Ann. § 33-1-701, and upon a finding that a violation of the Montana Insurance Code has occurred, CSI may impose a fine of up to \$5,000. *See* Mont. Code Ann. § 33-1-317.

3. Mont. Code Ann. § 33-17-1102(1) provides in part, "The insurance producer shall at all times act in a fiduciary capacity and shall in the applicable regular course of business account for and pay the insurance premiums the insurance producer receives to the...insurer...entitled to them."

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5. The Commissioner has a duty to regulate the provision of insurance and to protect the public from harm caused by insurer and insurance producer misconduct. The Commissioner may suspend or revoke an insurance producer license, levy a civil penalty in accordance with § 33-1-317, MCA, or may choose or any combination of those actions, when a licensed insurance producer has:

(a) engaged or is about to engage in an act or practice for which issuance of the license could have been refused §33-17-1001(1)(a), MCA;

(c) violated or failed to comply with a provision of this code...§ 33-17-1001(1)(c), MCA;

(f) in the conduct of the affairs under the license...is incompetent, untrustworthy, financially irresponsible or a source of injury and loss to the public. ...§ 33-17-1001(1)(f), MCA

6. Based on the Factual Allegations set forth above, Respondent engaged in conduct inconsistent with the privilege of licensure as proscribed by § 33-17-1001(1)(a), (1)(c), or (1)(f) MCA, and is subject to revocation of, or a refusal to renew or issue any license previously granted by the Commissioner.

PROPOSED AGENCY ACTION

WHEREFORE, the Commissioner proposes to order the following:

1. WHEREFORE, the Commissioner in his discretion, considering the gravity, number and scope of offense(s), and the financial loss involved, and to protect the health, safety, and welfare of the public, proposes to order the following:

2. Revocation of the Respondent's Certified Exchange Producer license pursuant to § 33-17-1001, MCA

3. Refusal to renew or to issue the Respondent an Insurance Producer or Certified Exchange Producer license pursuant to § 33-17-1001(1), MCA for a period of five (5) years.

STATEMENT OF RIGHTS

Respondent is entitled to contest the Commissioner's proposed action by requesting an administrative hearing. To do so, **within 24 days of the date this Notice**, Respondent must submit a written hearing request to CSI at 840 Helena Avenue, Helena, MT 59601 or CSI.LegalService@mt.gov. A hearing request may, but does not have to, include a response to the allegations set forth above. If a hearing is requested, Respondent will be provided notice of the time, place, and nature of the hearing. Respondent will be entitled to attend this hearing and respond and present evidence and arguments on all issues involved in this action.

Respondent has the right to retain legal counsel to represent, accompany, and advise her at any and all stages of this proceeding or may also elect to represent herself; however,

a business entity may not appear on its own behalf or through an agent other than an attorney licensed to practice law. Admin. R. Mont. 1.3.231.

Administrative hearings are conducted by an impartial hearing examiner appointed by the Commissioner under the provisions of the Montana Administrative Procedures Act. Formal proceedings may be waived pursuant to § 2-4-603, MCA.

CONTACT WITH COMMISSIONER'S OFFICE

If there are questions or concerns, please contact CSI at 406-444-2040 or CSI.LegalService@mt.gov. If represented by an attorney, please ensure this contact is made by the attorney.

POSSIBILITY OF DEFAULT

Failure to timely provide a written hearing request shall result in the entry of a default order imposing the Commissioner's proposed action, without additional notice, pursuant to Admin. R. Mont. 1.3.214.

DATED May 16, 2024.

By: /s/ Carlo Canty
CARLO CANTY
Legal Counsel
Commissioner of Securities and Insurance
Office of the Montana State Auditor

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2024, I caused a true and accurate copy of the foregoing Notice of Proposed Agency Action to be mailed to:

Jody Lynn Hanks
3805 7th St NE, Trlr 65
Great Falls, MT 59404



TIFFANY HOFFMAN
Paralegal

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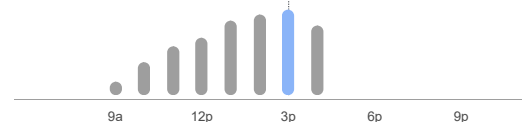
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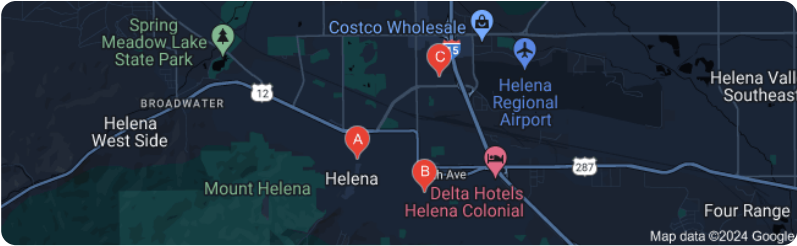
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