

Steven A. Karrer, KS # 19366
Philip R. Michael, KS # 26072
Kansas Department of Insurance
1300 SW Arrowhead Road
Topeka, KS 66604
785-296-7847
Steve.Karrer@ks.gov
Philip.Michael@ks.gov

Jodi M. Adolf, KS # 20741
Bruce E. Baty, KS # 30488
Norton Rose Fulbright US LLP
7676 Forsyth Blvd., Suite 2230
St. Louis, MO 63105
314-505-8805
314-505-8804
jodi.adolf@nortonrosefulbright.com
bruce.baty@nortonrosefulbright.com

ATTORNEYS FOR PETITIONER

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION 15**

VICKI SCHMIDT,)	
COMMISSIONER OF)	
INSURANCE,)	
<i>In her Official Capacity,</i>)	
)	
Petitioner,)	Case No. _____
)	
vs.)	
)	
KEY INSURANCE COMPANY,)	
)	
Respondent.)	

**PETITION FOR REHABILITATION OF DOMESTIC
PROPERTY AND CASUALTY COMPANY**

Commissioner of Insurance, Vicki Schmidt, by and through counsel, petitions the Court for an order authorizing the Commissioner to rehabilitate Key Insurance Company pursuant to the Insurers Supervision, Rehabilitation, and Liquidation Act, K.S.A. 40-3605, *et seq.*

Nothing in this Petition may be construed as alleging “final order of liquidation” or a finding that Key Insurance Company is “impaired” or “insolvent” and, until further order or action by this Court, Key Insurance Company shall not be considered an “insolvent insurer” within the meaning of the K.S.A. 40-3607.

In support of this Petition, the Commissioner states as follows:

THE PARTIES

1. Vicki Schmidt is the duly-elected Commissioner of Insurance of the State of Kansas (“**Commissioner**”) and is the chief executive of the Kansas Department of Insurance (“**Department**”) pursuant to K.S.A. 40-102. The Commissioner is responsible for the supervision, control and regulation of companies authorized to transact the business of insurance in Kansas pursuant to K.S.A. 40-103, and is authorized to bring this action pursuant to K.S.A. 40-3608 and 40-3616. The Commissioner is exempt, pursuant to K.S.A. 60-2005, from depositing court costs required by any law of this state in any civil action in which it is involved.

2. Key Insurance Company (“**Key**”) is a stock property and casualty insurance company organized under the laws of the State of Kansas. Key’s statutory home office and main administrative office is located at 8595 College Blvd, Suite 200, Overland Park, Kansas 66210.

JURISDICTION

3. Venue and Jurisdiction are proper in this Court pursuant to K.S.A. 40-3608 and 40-3616.

FACTUAL ALLEGATIONS

BACKGROUND

4. Key was incorporated on March 22, 2007, as a stock property and casualty insurance company under the laws of Kansas, particularly K.S.A. 40-301 *et seq.* and K.S.A. 40-1101 *et seq.* Key was organized as a for-profit company as set forth in its articles of incorporation (“**Articles**”). The Articles provide for a perpetual existence.

5. Key is wholly-owned directly by Med James, Inc. (“**MJI**”) with offices located in Overland Park, Kansas, and ultimately owned by Med James, III, a private individual.

6. Key is controlled by its sole stockholder, MJI, and managed by a Board of Directors (“**Board**”).

7. Key possesses a certificate of authority issued by the Commissioner.

8. The Department has been aware that Key has experienced declining financial performance dating back at least to 2023.

9. The financial statements Key submitted pursuant to K.S.A. 40-225 and K.A.R. 40-1-42(c), for the period ending June 30, 2023, triggered certain hazardous financial condition standards set forth in the Department’s Policy and Procedure for Companies Deemed to Be in Hazardous Financial Condition as adopted by K.A.R. 40-1-38.

10. As a result of these triggers, the Department required Key to submit a Corrective Action Plan, monthly statutory financial statements, and monthly RBC ratio estimates to address those concerns.

11. Key's financial condition did not improve, and on January 17, 2025, the Department issued a Notice and Order of Confidential Administrative Supervision pursuant to K.S.A. 40-3613(b).

12. During the course of Administrative Supervision, Key's financial condition continued to deteriorate. In February, 2025, for example, Key paid over \$9 million in claim payments, seriously depleting its surplus.

13. On February 24, 2025, Key submitted a Request for Permitted Accounting Practice ("**Request**") to the Department, to account for proceeds from the sale of renewal rights for its Nevada policies. The Request, if permitted, would have the effect of allowing Key to account for the sale proceeds, received in 2025, on Key's year-end 2024 annual financial statement.

14. The documentation presented with the Request shows that without the Permitted Accounting Practice, Key's capital and surplus at year-end would be a **negative \$6,642,548**, and even with the Permitted Accounting Practice, Key's capital and surplus at year-end 2024 would only be a **positive \$1,357,452**. The minimum capital and surplus required of a property and casualty insurance company to do business in the State of Kansas is \$1,500,000. K.S.A. 40-901 and K.S.A. 40-1102.

15. Even with the Permitted Accounting Practice, the Department estimates that Key's risk-based capital ("**RBC**")¹ ratio as of year-end 2024 is well below 70%², which, pursuant to

¹ State insurance regulators are charged with ensuring that insurance companies can fulfill their financial obligations to policyholders. One way they do this is by imposing an RBC requirement. The RBC requirement is a statutory minimum level of capital that is based on two factors: 1) an insurance company's size; and 2) the inherent riskiness of its financial assets and operations. That is, the company must hold capital in proportion to its risk. RBC is intended to be a regulatory standard and not necessarily the full amount of capital that an insurer would need to hold to meet its objectives. See <https://content.naic.org/insurance-topics/risk-based-capital>

² Meaning that Key's available capital is only 70% of the minimum capital required for its business.

K.S.A. 40-2c01 *et seq.* is considered a mandatory control level event. Pursuant to the statute, “[i]n the event of a mandatory control level event with respect to: ... (b) A property and casualty insurer, the commissioner shall take such actions as are necessary to place the insurer under regulatory control under K.S.A. 40-3605 *et seq.* and amendments thereto [T]he mandatory control level event shall be deemed sufficient grounds for the commissioner to take action under K.S.A. 40-3605 *et seq.* and amendments thereto and the commissioner shall have the rights, powers and duties with respect to the insurer as are set forth in K.S.A. 40-3605 *et seq.* and amendments thereto.” K.S.A. 40-2c18.

16. The decline in capital and surplus and low RBC ratio require action by the Commissioner pursuant to K.S.A. 40-2c01 and K.S.A. 40-2c18.

17. Based upon information provided by Key during Administrative Supervision and in its Request, it is highly unlikely the mandatory control level event may be eliminated within 90 days.

18. The deterioration of Key’s financial condition is such that the further transaction of business would be hazardous to its policyholders, creditors, or the public.

19. On February 28, 2025, the Board of Key executed a Resolution consenting to the rehabilitation of Key and waiving notice and right to a hearing on a petition for rehabilitation of Key. *See Exhibit A* attached hereto and incorporated herein by reference.

GROUND FOR REHABILITATION

20. Paragraphs 1-19 are incorporated by reference.

21. K.S.A. 40-3616 sets forth the grounds for the Commissioner to seek an order to rehabilitate an insurer domiciled in Kansas, which include, *inter alia*:

(a) the insurer is in such condition that the further transaction of business would be hazardous to its policyholders, creditors, or the public.

...

(i) the board of directors of the insurer requests or consents to rehabilitation under this act.

22. Key's ongoing and future losses, high expense ratios and inadequate admitted assets demonstrate a substantially deteriorating financial position, increasing the risk to policyholders, creditors and the public.

23. Key, through its Board, has consented to rehabilitation under the Insurers Supervision, Rehabilitation and Liquidation Act.

APPOINTMENT OF SPECIAL DEPUTY RECEIVERS

24. The Commissioner as Rehabilitator has the power to "appoint one or more special deputies, who shall have all the powers and responsibilities of the rehabilitator granted under this section, and the commissioner may employ such counsel, clerks and assistants as deemed necessary. The compensation of the special deputy, counsel, clerks and assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the commissioner, with the approval of the court and shall be paid out of the funds or assets of the insurer. The persons appointed under this section shall serve at the pleasure of the commissioner." K.S.A. § 46-3618(a).

25. The Commissioner intends to appoint, with the approval of this Court, Jodi M. Adolf and Bruce E. Baty as her Special Deputy Receivers ("SDRs"). These SDRs are experienced attorneys and specialize in the restructuring and management of troubled insurance companies, and their assistance with the rehabilitation of Key will be essential.

RELIEF REQUESTED

WHEREFORE, pursuant to K.S.A. 40-3605, *et seq.*, Petitioner requests the following relief:

- A. A finding that sufficient cause exists for rehabilitation of Key;
- B. A finding that the further transaction of business by Key would be hazardous financially to its policyholders, creditors or to the public;
- C. Entering an Order of Rehabilitation against Key, ordering the following:
 - 1. The appointment of Vicki Schmidt, Commissioner of Insurance for the State of Kansas and her successors, as Rehabilitator;
 - 2. Approving her appointment of Jodi M. Adolf and Bruce E. Baty as her Special Deputy Receivers, who shall have all the powers and responsibilities of the Rehabilitator granted under Kansas law and this Order;
 - 3. Directing that the Rehabilitator may consult with and obtain the assistance and advice of insurance experts, attorneys, and consultants;
 - 4. Directing that the compensation of the SDRs, counsel, consultants, clerks and assistants and all expenses of taking possession of Key and of conducting the proceedings shall be fixed by the Commissioner, with the approval of the Court and shall be paid out of the funds or assets of Key;
 - 5. Directing that the Rehabilitator may take such action as necessary or appropriate to reform and revitalize Key;
 - 6. Directing that the Rehabilitator shall have all the powers of the officers, directors, managers, agents and employees, whose authority shall be suspended, except as they are specifically re-delegated by the Rehabilitator;

7. Directing that the Rehabilitator shall have full power to direct and manage, to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of Key;

8. Directing that the Rehabilitator shall secure and take possession of all the assets, property, books, records, accounts and other documents of Key;

9. Prohibiting all officers, directors, managers, employees, or agents from disposing, using, transferring, removing or concealing any property of Key, without the express written authority of the Rehabilitator;

10. Prohibiting any bank, savings and loan association or other financial institution or other legal entity from disposing of, allowing to be withdrawn or concealing in any manner any property or assets of Key, except under the express authorization of the Rehabilitator or by the further order of this Court;

11. Directing that Key shall not issue any new insurance policies or renew existing insurance policies;

12. Imposing a moratorium on the payment by Key of any claim against a policy, policyholder, or Key in an amount that exceeds the policy limits of the applicable insurance policy or policies;

13. Staying any of the following actions:

a. The commencement or continuation of a judicial, administrative, or other action or proceeding against Key, either before or after the commencement of this action;

b. The enforcement, against Key or its property, of a judgment obtained before the commencement of this case;

c. Any act to obtain possession of property of Key or to exercise control over property of Key;

d. Any act to create, perfect or enforce any lien against property of Key;

e. Any act to create, perfect or enforce against property of Key any lien to the extent that such lien secures a claim that arose before the commencement of this case;

f. Any act to collect, assess, or recover a claim against Key that arose before the commencement of this case; and

g. The setoff of any debt owing to Key that arose before the commencement of this case against any claim against Key.

14. Investing in the Rehabilitator all of the powers granted pursuant to K.S.A. 40-3618; and

15. Such further decrees, orders and judgments under and within the provisions of K.S.A. 40-3605, *et seq.*, as the Court shall find advisable or necessary.

Respectively submitted,

/s/ Steven A. Karrer
Steven A. Karrer, KS # 19366
General Counsel
Philip R. Michael, KS # 26072
Lead Regulatory Counsel
Kansas Department of Insurance

1300 SW Arrowhead Road
Topeka, KS 66612
785-296-7847
Steve.Karrer@ks.gov
Philip.Michael@ks.gov

Jodi M. Adolf, KS #20741
Bruce E. Baty, KS #30488
Norton Rose Fulbright US LLP
7676 Forsyth Blvd., Suite 2230
St. Louis, MO 63105
314-505-8805
314-505-8804
jodi.adolf@nortonrosefulbright.com
bruce.baty@nortonrosefulbright.com
ATTORNEYS FOR PETITIONER
Vicki Schmidt, Commissioner of Insurance

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a true and correct copy of the above and foregoing **Petition for Rehabilitation** on this 3rd day of March 2025 by causing the same to be placed in the United States Mail, first class postage prepaid, electronic mail (when available), and/or hand-delivered addressed to the following:

Zach Dyer

Polsinelli, P.C.
900 W. 48th Place, Suite 900
Kansas City, MO 64112
simber@polsinelli.com
zdyer@polsinelli.com
Counsel for Respondent Key

Med James III

Chair, Board of Directors of Respondent Key
8595 College Blvd, Suite 200
Overland Park, Kansas 66210

Key Insurance Company

8595 College Blvd, Suite 200
Overland Park, Kansas 66210

/s/ Steven A. Karrer
Steven A. Karrer, KS# 19366

Exhibit A

**KEY INSURANCE COMPANY
EXECUTIVE SESSION
February 28, 2025**

The executive session of the Board of Directors of Key Insurance Company (“Key”) was called to order by the Chair on Friday, February 28, 2025, at the Home Office in Overland Park, Kansas. The following board members were present in person or by teleconference, including Med David James III, James Velmar Spain, David Scott Karpowich, and Melanie Denise French, comprising a quorum.

Resolution 1 was brought before the Board of Directors for approval:

RESOLUTION 1

WHEREAS, Key has experienced significant financial difficulties resulting in a material decrease in its statutory surplus; and

WHEREAS, the Kansas Department of Insurance has indicated its intent to file a petition to place Key into rehabilitation pursuant to K.S.A. §§ 40.3605 *et seq.*; and

WHEREAS, in order to preserve the assets of Key and protect the rights of its policyholders, the Board of Directors, being duly advised in the premises, has determined to consent to rehabilitation pursuant to the provisions set forth in K.S.A. § 40.3616(i).

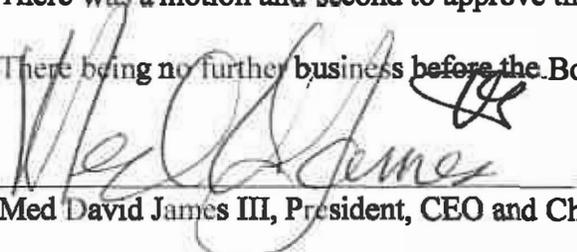
NOW, THEREFORE:

BE IT RESOLVED, the Board of Directors does hereby consent to the rehabilitation of Key; and

BE IT FURTHER RESOLVED, the Board of Directors does hereby waive notice and right to a hearing on a petition for rehabilitation of Key.

There was a motion and second to approve the Resolution. The motion unanimously passed.

There being no further business before the Board, the meeting adjourned.


Med David James III, President, CEO and Chairman