

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

**In the Matter of the Application for a
Kansas Resident Insurance Agent's
License of JEFFREY ERIK FERMAN
NPN #18103185**

)
)
)
)

Docket No. 83189

PROPOSED DEFAULT ORDER
(Pursuant to K.S.A. 40-4909 and K.S.A. 77-520 et seq.)

Pursuant to authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 40-4909, the Commissioner proposes to find facts and affirm denial of the application of Jeffrey Ferman ("Applicant") for a Kansas resident insurance agent's license by Default Order as provided by K.S.A. 77-520.

Findings of Fact

1. Applicant submitted an application for Kansas resident insurance agent license on September 23, 2016.
2. Background Question 1a under Item 38 of the application asks, "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?" Applicant answered "Yes."
3. Applicant provided information regarding the following misdemeanor conviction (hereinafter "Conviction"):

Sedgwick County District Court, Case No. 2015CR002955, Endangerment (3 counts) (Misdemeanor).
4. By letter dated October 5, 2016, KID staff notified Applicant that his application was denied based on his Conviction. K.S.A. 40-4909(a)(6).
5. The Department did not receive a request for hearing after this application denial.

6. Applicant submitted a second application for Kansas resident insurance agent license on March 9, 2020. The Department received Applicant's fingerprint card and waiver form on March 31, 2020.
7. Background Question 1a under Item 38 of the application asks, "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?" Applicant answered "Yes."
8. Applicant provided necessary documents with his application, which showed Applicant's Conviction.
9. Background Question 2 of the application asks, "Have you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?" Applicant answered "No."
10. By letter dated April 20, 2020, KID staff notified Applicant that his application was denied based on his misdemeanor conviction, misrepresentation or fraud in attempting to obtain a license and submission of incorrect, misleading or untrue information in the license application. K.S.A. 40-4909(a)(1), (a)(3) and (a)(6).
11. Applicant timely submitted a request for hearing on April 20, 2020.
12. A prehearing conference was scheduled for May 28, 2020 at 10:00 am.
13. In the Notice of Prehearing Conference Reschedule dated May 20, 2020, the Department notified Applicant that the prehearing conference was rescheduled to May 27, 2020 at 2:00 p.m. and that failure to complete and return the prehearing questionnaire by May 22, 2020 would result in postponement of the rescheduled prehearing conference. Applicant did not submit the prehearing questionnaire.

14. The Department contacted Applicant via email on June 2, 2020 to determine whether Applicant wanted to move forward with rescheduling the prehearing conference. Applicant responded via email on June 2, 2020. Applicant reported that he wanted to obtain counsel prior to rescheduling the prehearing conference.
15. The Department contacted Applicant via email on July 21, 2020 for an update regarding the status of Applicant's hearing request. Applicant responded via email on July 21, 2020. Applicant stated that he had not hired an attorney due to financial reasons.
16. On October 6, 2020, the Department attempted to contact Applicant via telephone and left a voice message. Applicant did not respond.
17. On October 7, 2020, the Department notified Applicant by email for an update on his hearing request, specifically if he wished to move forward and if he had hired an attorney. Applicant responded on October 8, 2020 that he was saving money for the retention fee to hire an attorney.
18. On October 8, 2020, General Counsel for the Department notified Applicant that the Department was prepared to proceed with a hearing and requested that Applicant schedule the hearing and pay the hearing fee or withdraw the hearing request within 45 days and let the decision become final. Applicant has not scheduled the hearing or paid the hearing fee.

Applicable Law

19. Before approving an application for a license, the Commissioner must determine that the applicant has not committed any act that is grounds for denial pursuant to K.S.A. 40-4909. See K.S.A. 40-4905(b).

20. The Commissioner may deny a license if the Applicant has submitted incorrect, misleading, incomplete or untrue information in the license application or has been convicted of a misdemeanor or felony. K.S.A. 40-4909(a)(1) and K.S.A. 40-4909(a)(6).
21. Pursuant to K.S.A. 40-4909(c), "any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for hearing conducted in accordance with the provisions of the Kansas administrative procedures act."
22. Pursuant to K.S.A. 77-520(a), "if a party fails to attend or participate in a prehearing conference, hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties' written notice of a proposed default order, including a statement of the grounds."
23. Pursuant to K.S.A. 77-523(a), the Presiding Officer, the Assistant Commissioner of Insurance acting on behalf of the Commissioner of Insurance as the agency head as provided in K.S.A. 77-547, is empowered to render a Final Order.
24. Pursuant to K.S.A. 77-520(b), Applicant may file a written motion requesting that this proposed default order be vacated stating the grounds relied on within seven days after the service of this proposed default order.
25. This proposed default order shall become effective seven days after service upon Applicant unless a written motion to vacate the order is filed by the Applicant with the agency.

Conclusions of Law

26. Applicant has been properly served notice of the action, facts and laws relied upon, and notice of the date and time for hearing.

27. The Commissioner has jurisdiction over Applicant as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
28. The Assistant Commissioner of Insurance is acting on behalf of the Commissioner of Insurance as the agency head and is empowered to render a Final Order.
29. The Commissioner finds that Applicant has failed to respond to Department staff to schedule the prehearing conference for the hearing he requested and a proposed default order should be served.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT Applicant's hearing proceeding is DISMISSED, and the findings of fact, conclusions of law, and order contained above are adopted by reference and made the final order of the Commissioner. Furthermore, it is found that the application for a resident insurance agent's license of **JEFFREY ERIK FERMAN** is hereby **DENIED**.

Unless vacated by further order, this Order shall become effective as a Final Order at the expiration of the time for filing a motion to vacate the order.

IT IS SO ORDERED THIS 1st DAY OF DECEMBER 2020, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Vicki Schmidt
Commissioner of Insurance

BY:

Barbara W. Rankin
Assistant Commissioner
Hearing Officer

NOTICE OF RIGHT TO FILE A MOTION TO VACATE

Pursuant to K.S.A. 77-520(b), Applicant is entitled file a Motion to Vacate. A Motion to Vacate must be filed within seven (7) days of service of this Proposed Default Order (plus three [3] days for service by mail pursuant to K.S.A. 77-531).

In the event Applicant files a Motion to Vacate pursuant to K.S.A 77-520(b), the Agency Officer to be served on behalf of the Kansas Insurance Department is:

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

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to K.S.A. 77-601 through K.S.A. 77-631, Applicant is entitled to judicial review, if this Proposed Default Order becomes a Final Order. The petition for judicial review must be filed within thirty (30) days of service of the date the Proposed Default Order becomes a Final Order (plus three [3] days for service by mail pursuant to K.S.A. 77-531). In the event Applicant files a petition for judicial review pursuant to K.S.A. 77-613(e), the Agency Officer to be served on behalf of the Kansas Insurance Department is:

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

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the above-and foregoing Proposed Default Order upon Applicant by causing a copy of the same to be deposited in the United States mail, first class postage prepaid, Certified Mail and electronic mail on the 7th day of December 2020, addressed to the following:

Jeffrey Erik Ferman

[REDACTED]
Wichita, KS [REDACTED]
[REDACTED]

Applicant

and hand-delivered to the following:

Nicole K. Turner
Staff Attorney
Kansas Insurance Department
1300 SW Arrowhead Rd.
Topeka, KS 66604
Counsel for the Kansas Insurance Department



Jill Spurling
Legal Assistant