

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

**In the Matter of the Application for a)
Kansas Resident Insurance Producer’s)
License of YVONNE PEREZ BELMONTES)
NPN # 20065054)**

Docket No. 90387

PROPOSED DEFAULT ORDER
(Pursuant to K.S.A. 40-4909 and K.S.A. 77-501 et seq.)

1. On September 13, 2021, Yvonne Perez Belmontes (Applicant), applied for a Kansas resident individual insurance producer license. On October 22, 2021, the Kansas Insurance Department (“Department”) staff notified Applicant by letter that the application was denied based on K.S.A. 40-4909(a)(1), K.S.A. 40-4909(a)(6), and K.S.A. 40-4909(b). On October 27, 2021, Applicant filed a timely request for a hearing. Based on the following Facts and Applicable Law, the Commissioner of Insurance (Commissioner), proposes that a default order, pursuant to K.S.A. 77-520(a), should be issued due to Applicant’s failures to comply with requests to provide documentation and to appear at a scheduled Prehearing Conference.

Findings of Fact

2. Applicant agreed that she could attend an initial Prehearing Conference scheduled for January 20, 2022. On October 29, 2021, the Notice of Prehearing Conference enclosed with a copy of the Prehearing Questionnaire was sent to Applicant via United States Postal Service and email.

3. As stated in the Notice of Prehearing Conference, Applicant’s Prehearing Questionnaire was due to be delivered to the Department on or before January 13, 2022. The Notice of Prehearing Conference advised that failure to submit the completed Prehearing Questionnaire to the Department by January 13, 2022, would result in a cancellation of the Prehearing Conference.

4. Applicant failed to submit the Prehearing Questionnaire by January 13, 2022.
5. On January 18, 2022, Applicant was notified by email and telephone that the Prehearing Questionnaire must be submitted by 5:00 p.m. on January 18, 2022, or the Prehearing Conference scheduled for January 20, 2022 at 10:00 a.m. would be canceled. A voicemail message was left on January 19, 2022, letting Applicant know the Prehearing Questionnaire had not yet been received.
6. Applicant failed to submit the Prehearing Questionnaire and the Prehearing Conference was canceled.
7. On January 19, 2022, a Notice of Cancellation of Prehearing Conference was sent to Applicant via United States Postal Service and email. The Notice of Cancellation of Prehearing Conference stated that Applicant's failure to communicate with the Department or return the Prehearing Questionnaire by January 26, 2022 would result in the issuance of a Proposed Default Order to dismiss the Applicant's appeal for lack of prosecution and to affirm the Department's denial of the Applicant's license application.
8. On January 28, 2022, Applicant submitted a completed Prehearing Questionnaire.
9. Applicant agreed that she could attend a rescheduled Prehearing Conference to be held 10:00 a.m. on March 17, 2022, via telephone conference. On January 28, 2022, a Notice of Prehearing Conference Reschedule was issued confirming the rescheduling of the Prehearing Conference
10. On March 17, 2022, the Presiding Officer and the Department initiated the call for the Prehearing Conference. The parties waited on the conference line for twenty (20) minutes for Applicant to join the telephone conference call. During that time, the Legal Assistant to the Presiding Officer called Applicant and left a voicemail message letting her know she needed to

call into the Prehearing Conference in order for the Prehearing Conference to continue as scheduled.

11. Applicant did not attend the Prehearing Conference. She subsequently contacted the Presiding Officer's Legal Assistant claiming she forgot about the scheduled conference and asking how it could be rescheduled.

Applicable Law

12. Pursuant to K.S.A. 40-4909(d), "Any action taken under this section that affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedures act."

13. 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."

14. Pursuant to K.S.A. 77-520(b), Applicant may file a written motion requesting this proposed default order be vacated stating the grounds relied on within seven (7) days after the service of this proposed default order.

15. Pursuant to K.S.A. 77-520(c), "The proposed default order shall become effective after expiration of the time within which the party may file a written motion under subsection (b) unless a written motion to vacate the order is filed with the agency within such time."

16. Pursuant to K.S.A. 77-520(e), "If the presiding officer is the agency head, or has been designated under K.S.A. 77-514, and amendments thereto, to issue a final order, the order shall be deemed a final order."

Conclusions of Law

17. The Commissioner has jurisdiction over the Applicant as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

18. The Assistant Commissioner of Insurance is acting on behalf of the Commissioner of Insurance as the agency head and is empowered to act as the Presiding Officer and issue a Final Order. See K.S.A. 77-547 and K.S.A. 77-514.

19. The Commissioner finds that Applicant failed to timely submit the Prehearing Questionnaire or respond to the Department's communications regarding the Prehearing Questionnaire and originally scheduled Prehearing Conference. The Applicant only communicated with the Department after a Cancellation of Prehearing Conference warned Applicant that her failure to cooperate in requests by the Commissioner would result in a proposed default order. The Applicant has since failed to participate in a scheduled Prehearing Conference and a Proposed Default Order should be served in accordance with K.S.A. 77-520.

20. Pursuant to the authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 40-4909, the Commissioner proposes, based on the facts stated herein to affirm the denial of the application of Yvonne Perez Belmontes ("Applicant") for a Kansas resident insurance producer's license by Default Order, as provided by K.S.A. 77-520.

IT IS THEREFORE ORDERED THAT THE APPLICANT MUST SUBMIT A WRITTEN REQUEST TO VACATE THIS PROPOSED DEFAULT ORDER WITHIN SEVEN (7) DAYS OF THE DATE OF THIS ORDER. The request to vacate must include substantive reasons to establish excusable neglect in failing to (1) return to the prehearing questionnaire by the original due date of January, (2) fail to timely communicate with the Presiding Officer's Assistant about prehearing matters, and (3) failure to attend the

Prehearing Conference. If a written request to vacate is not timely received, the Applicant's proceeding will be DISMISSED.

IT IS FURTHER ORDERED THAT Applicant's failure to file a timely written motion to vacate **WILL RESULT IN THIS ORDER BECOMING EFFECTIVE AS A FINAL ORDER** and Applicant's application for a Kansas nonresident insurance producer's license will be **DENIED**.

IT IS SO ORDERED THIS 24th **DAY OF MARCH 2022, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



VICKI SCHMIDT
COMMISSIONER OF INSURANCE

BY: *Barbara W. Rankin*
Barbara W. Rankin
Assistant Commissioner
Presiding 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
420 SW 9th Street
Topeka, KS 66612

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

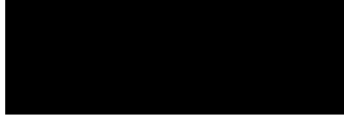
Order (plus three [3] days for service by mail pursuant to K.S.A. 77-531). In the event Applicant files a petition for judicial review pursuant to K.S.A. 77-613(e), the Agency Officer to be served on behalf of the Kansas Insurance Department is:

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing PROPOSED DEFAULT ORDER on this 14th day of March 2022, by causing the same to be electronically mailed and placed in the United States Mail, first class postage prepaid addressed to the following:

Yvonne Perez Belmontes



Applicant

And hand-delivered to the following:

Kimberley Davenport Megrail
Senior Attorney
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, KS 66604
Counsel for the Kansas Insurance Department

Jill Spurling
Legal Assistant

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