

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

**In the Matter of the Application for a)
Kansas Nonresident Insurance Producer’s)
License of MICHAEL WEINBERGER)
NPN # 19811232)**

Docket No. 93266

PROPOSED DEFAULT ORDER
(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, the Commissioner proposes to find facts and affirm the denial of the application of Michael Weinberger (“Applicant”) for a Kansas nonresident insurance producer’s license by Default Order, as provided by K.S.A. 77-520.

Findings of Fact

1. On March 16, 2022, Applicant, a resident of Kansas City, Missouri, applied for a Kansas resident individual insurance producer license.
2. On April 7, 2022, the Kansas Insurance Department (“Department”) staff notified Applicant by letter that the application was denied based on, K.S.A. 40-4909(a)(6), and K.S.A. 40-4909(b).
3. On April 11, 2022, Applicant filed a timely request for a hearing.
4. On April 22, 2022, the Notice of Prehearing Conference enclosed with a copy of the Prehearing Questionnaire was sent to Applicant via United States Postal Service and email. Upon notification to the Department that Applicant was represented by counsel, the Notice of Prehearing Conference and Prehearing Questionnaire
5. As stated in the Notice of Prehearing Conference, Applicant’s Prehearing Questionnaire was due on June 2, 2022. The Notice of Prehearing Conference advised that failure

to submit the completed Prehearing Questionnaire the Department by June 2, 2022, may result in a default ruling.

6. Counsel for the Applicant, at her request, was given an extension to file the Prehearing Questionnaire. Counsel for Applicant was notified by email on June 2, 2022 that the Prehearing Questionnaire must be submitted by close of business on June 3, 2022 or the Prehearing Conference would be canceled.

7. Counsel for Applicant failed to submit Prehearing Questionnaire by June 3, 2022.

8. On June 6, 2022, the Presiding Officer issued a Notice of Cancellation after Applicant failed to submit a completed Prehearing Questionnaire to the Department. in which it was stated that Applicant's failure to return the Prehearing Questionnaire by June 20, 2022, would result in the issuance of a Proposed Default Order.

9. On June 6, 2022, Counsel for the Applicant advised the Department that Applicant wished to abandon his appeal of the Department's decision to deny his application. Counsel for the Department advised Counsel for the Applicant of the ability for Applicant to enter into a Stipulated Order. The Stipulated Order would withdraw Applicant's request for appeal and would allow the decision to deny his application to become final.

10. On June 10, 2022, Counsel for Applicant notified Counsel for the Department that she has been unable to contact the Applicant.

11. To this date, Applicant has not communicated with the Department or submitted the Prehearing Questionnaire.

Applicable Law

12. Before approving an application for a license, the Commissioner must determine 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).

13. Pursuant to K.S.A. 40-4909(a)(6), the Commissioner may deny a license if the Applicant has been convicted of a misdemeanor or felony.

14. Pursuant to K.S.A. 40-4909(b), the Commissioner may deny a license if the interests of the insurer or the insurable interests of the public are not properly served under the license.

15. Pursuant to K.S.A. 40-4909(d), "Any action taken under this 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."

16. 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."

17. 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.

18. 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."

19. 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

20. 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.

21. 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.

22. The Commissioner finds that Applicant has failed to participate in required stage of an adjudicative proceeding, or to communicate with the Department about the proceedings, and a Proposed Default Order is appropriate and should be served in accordance with 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. 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 15 DAY OF JUNE 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
1300 SW Arrowhead Road
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 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 June 2022, by causing the same to be electronically mailed and placed in the United States Mail, certified mail, return receipt requested and first class postage prepaid addressed to the following:

Michael Weinberger

[REDACTED]
Kansas City, MO [REDACTED]
[REDACTED]

Applicant

Michael Weinberger
c/o Kathryn T. Alsobrook
700 W 47th Street, Ste 410
Kansas City, MO 64112
[REDACTED]

Counsel for 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



Sarah Cowan
Legal Assistant