

**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 FRANCIS P. FUENTES)	Docket No. 96507
NPN # 20252037)	

ORDER DENYING REQUEST FOR A HEARING
(Pursuant to K.S.A. 40-4905 and K.S.A. 77-501 *et seq.*)

The Kansas Insurance Department (“Department”) denied the application of Francis P. Fuentes (“Applicant”) for a Kansas nonresident insurance producer’s license (“Application”) by a Decision on License Application (“Denial Letter”) dated October 12, 2022. Applicant submitted a request for a hearing after the deadline to request a hearing expired. **The Commissioner of Insurance (“Commissioner”) finds that the evidence establishes the Applicant’s request for a hearing was untimely and therefore denies the Applicant’s request.**

Findings of Fact

1. Applicant’s Application was denied by a Denial Letter dated October 12, 2022.
2. Applicant was notified in the Denial Letter as follows:

You have a right to a hearing before the Assistant Commissioner of Insurance to appeal the staff decision to deny your application for a license. Pursuant to K.S.A. 77-537 and K.S.A. 77-542, **within fifteen (15) days (with an additional three (3) days for service) of the date of this letter, you may submit a written request for an appeal.** A form which you may use for this purpose is enclosed. [Emphasis added.]

3. The Denial Letter further notified Applicant that in the absence of a request for a hearing, **“in the time and manner stated”** [Emphasis added], the denial would become effective as a Final Order.
4. Applicant’s deadline to submit a request for a hearing expired on October 30, 2022,
5. Applicant submitted a request for a hearing via email on February 16, 2023.

Applicable Law

6. Pursuant to K.S.A. 77-526(a), 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.
7. Pursuant to K.S.A. 40-4905(g), “[a]ny applicant whose application for a license is denied shall be given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act [“KAPA”].”
8. Under KAPA, “[a]ny notice of agency action resulting in a right to request a hearing pursuant to the Kansas administrative procedure act must include a statement informing the person that a written request for a hearing must be filed with the agency within 15 days of service of the notice.” K.S.A. 77-542(a).
9. Pursuant to K.S.A. 77-531(b), when a party has the right to request a hearing within a prescribed period of time after service of the notice and the notice is sent by mail or electronic means, three days shall be added to the prescribed period.
10. Pursuant to K.S.A. 77-537(b)(2), “[t]he state agency shall serve each party with a copy of the order in a summary proceeding in the manner prescribed by K.S.A. 77-531, and amendments thereto. The order shall include...notice of the time and manner for requesting a hearing on the order, as provided in K.S.A. 77-542.”
11. Pursuant to K.S.A. 77-537(b)(3), a summary order shall include “notice that, if a hearing is not requested, **the order shall become effective upon the expiration of the time for requesting a hearing.**” [Emphasis added.]

Findings of Fact and Conclusions of Law

12. 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.

13. The Assistant Commissioner of Insurance, as the Presiding Officer, is acting on behalf of the Commissioner of Insurance as the agency head and is empowered to render a Final Order.

14. Applicant was notified by the Denial Letter that she had fifteen (15) days (with an additional three (3) days for service) to request a hearing to appeal the decision to deny her license application. Applicant was further notified by the letter that failure to appeal the decision would result in the letter becoming effective as a final order. The Presiding Officer finds that the notice of the time and manner in which to request a hearing on the summary order denying the Applicant's license application provided by Department to the Applicant met the requirements of KAPA.

15. The Presiding Officer finds the hearing request submitted by Applicant on February 16, 2023, was untimely.

16. The Decision on License Application became a Final Order when the Applicant did not request a hearing within the time specified in the notification included in the Denial Letter.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT Applicant submitted an untimely request for a hearing. The untimely request for a hearing is **DENIED**. The Decision on License Application dated October 12, 2022, became a **Final Order as a matter of law** when Applicant failed to timely request an administrative hearing.

IT IS SO ORDERED THIS 21st DAY OF FEBRUARY 2023, 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 JUDICIAL REVIEW

Pursuant to K.S.A. 77-601 through K.S.A. 77-631, Applicant is entitled to judicial review, if this Order Denying Request for Hearing 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

I hereby certify that I served a true and correct copy of the above-and-foregoing Order Denying Request for a Hearing upon Applicant by causing a copy of the same to be deposited in the United States mail, first class postage prepaid, on the 21st day of February 2023, addressed to the following:

Francis Fuentes

[REDACTED]

Dallas, TX [REDACTED]

[REDACTED]

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

Mindy Forrer

Mindy Forrer

Legal Assistant