

**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 NICOLE MOODY
NPN # 20659446**

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Docket No. 99636

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 Nicole Moody ("Applicant") for a Kansas resident insurance producer's license by Default Order, as provided by K.S.A. 77-520.

Findings of Fact

1. On March 24, 2023, Applicant applied for a Kansas resident individual insurance producer license.
2. On May 5, 2023, 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 May 19, 2023, Applicant filed a timely request for a hearing.
4. On May 30, 2023, the Notice of Prehearing Conference scheduling the prehearing conference for August 8, 2023, was sent to Applicant via United States Postal Service and email. Enclosed with the Notice of Prehearing Conference was a Prehearing Questionnaire.
5. As stated in the Notice of Prehearing Conference, Applicant's Prehearing Questionnaire was due on August 1, 2023. The Notice of Prehearing Conference advised that failure to submit the completed Prehearing Questionnaire to the Department by August 1, 2023, may result in a default ruling.

6. Applicant failed to submit Prehearing Questionnaire by August 1, 2023.

7. On August 2, 2023, Applicant was notified by email by the Presiding Officer's assistant that the Prehearing Questionnaire must be submitted by 5:00 p.m. on August 3, 2023, or the Prehearing Conference scheduled for August 8, 2023, would be canceled. In addition, on August 3, 2023, the Presiding Officer's assistant telephoned the Applicant and left a voice message that the Prehearing Questionnaire must be submitted by 5:00 p.m. that day or the Prehearing Conference scheduled for August 8, 2023, would be canceled.

8. Applicant failed to submit the Prehearing Questionnaire as directed.

9. On August 7, 2023, 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 August 18, 2023, would result in the issuance of a Proposed Default Order.

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

Applicable Law

11. 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).

12. Pursuant to K.S.A. 40-4909(a)(1), the Commissioner may deny a license if the Applicant has provided incorrect, misleading, incomplete or untrue information in the license application.

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(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."

15. 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."

16. 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.

17. 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."

18. 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

19. 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.

20. 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.

21. The Commissioner finds that Applicant has failed to submit the Prehearing Questionnaire or respond to the Department's communication regarding the Prehearing Questionnaire and Prehearing Conference and a Proposed Default Order 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 PROPOSED DEFAULT ORDER (PLUS THREE [3] DAYS FOR SERVICE BY MAIL PURSUANT TO K.S.A. 77-531). 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 resident insurance producer's license will be DENIED.

IT IS SO ORDERED THIS 22nd DAY OF AUGUST 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 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:

Kimberley Davenport Megrail, Senior Attorney
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, KS 66604
kim.davenportmegrail@ks.gov

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 22nd day of August 2023, by causing the same to be electronically mailed and placed in the United States Mail, first class postage prepaid addressed to the following:

Nicole Moody

[REDACTED]

Overland Park, Kansas [REDACTED]

[REDACTED]

Applicant

And hand-delivered to the following:

Kimberley Davenport Megrail

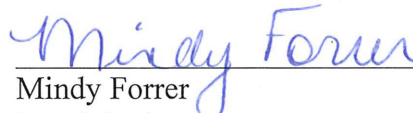
Senior Attorney

Kansas Insurance Department

1300 SW Arrowhead Road

Topeka, KS 66604

Counsel for the Kansas Insurance Department



Mindy Forrer
Legal Assistant