

**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 ERIK ROBERTS)	Docket No. 97857
NPN # 20529437)	

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 Erik Roberts (“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 November 10, 2022, Applicant applied for a Kansas resident individual insurance producer license.
2. On April 26, 2023, the Kansas Insurance Department (“Department”) staff notified Applicant by letter that the application was denied based on K.S.A. 40-4909(a)(1) and K.S.A. 40-4909(b).
3. On May 12, 2023, Applicant filed a timely request for a hearing.
4. On May 23, 2023, the Notice of Prehearing Conference enclosed with a copy of the Prehearing Questionnaire was sent to Applicant via United States Postal Service and email.
5. On July 19, 2023, Applicant submitted his completed Prehearing Questionnaire.
6. On July 26, 2023, at 10:00 a.m., the Prehearing Conference was held via conference call. The Applicant appeared *pro se* and the Department appeared by counsel. The Presiding Officer reviewed the prehearing questionnaires submitted by each party. A hearing was scheduled

for October 11, 2023, at 10:00 a.m. CST. Applicant was instructed to (1) provide certain documentation to the Department's Counsel by August 23, 2023, and (2) pay the investigative and hearing costs of \$500.00 ("Hearing Fee") no later than October 4, 2023. This information was included in the Prehearing Order issued by the Presiding Officer on August 7, 2023. The Prehearing Order further stated, "Failure to pay the required fee will result in cancellation of the hearing."

7. Neither the requested documentation nor the Hearing Fee were received by the applicable deadlines. On October 5, 2023, Applicant was notified by e-mail by the Presiding Officer's assistant that the Hearing Fee must be paid by 5:00 p.m. CST on October 5, 2023, or the hearing would be cancelled. The Presiding Officer's assistant also telephoned the Applicant at the phone number Department has on file for the Applicant but received a message that "the person you are trying to reach is unable to receive calls at this time."

8. On October 6, 2023, the Presiding Officer issued a Notice of Cancellation of Hearing, which stated that Applicant's failure to pay the Hearing Fee within thirty (30) days of the date of the Notice would result in the issuance of a Proposed Default Order.

9. To this date, Applicant has not paid the \$500.00 Hearing Fee. He further has not provided the additional documentation specified in the Prehearing Order, nor responded to the Department's attempts to communicate with him.

Applicable Law

10. 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).

11. 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.

12. Pursuant to K.S.A. 40-4909(b), the Commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license.

13. 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.”

14. 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.”

15. 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.

16. 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.”

17. 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

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

19. 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.

20. The failure to pay a required cost prior to a scheduled hearing, thus causing a cancellation of the hearing, is equivalent to failing to participate in a required stage of an adjudicative proceeding under K.S.A. 77-520. The Commissioner finds that 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 PROPOSED DEFAULT ORDER (PLUS THREE [3] DAYS FOR SERVICE BY MAIL PURSUANT TO K.S.A. 77-531). SUCH REQUEST MUST BE ACCOMPANIED BY PAYMENT¹ FOR THE REQUIRED \$500.00 HEARING FEE TO AVOID FURTHER DELAY. If a written request to vacate and payment of the Hearing Fee 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.

¹ The Applicant should contact the Presiding Officer's administrative assistant for information on methods available to pay the Hearing fee.

IT IS SO ORDERED THIS 6th DAY OF NOVEMBER 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:

Kim Davenport Megrail
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 Road
Topeka, KS 666044

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 6th day of November 2023, by causing the same to be electronically mailed and placed in the United States Mail, first class postage prepaid addressed to the following:

Erik Roberts

[REDACTED]

Overland Park, KS [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