

**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 GABRIELLE CALABRO)	Docket No. 107870
NPN #21167229)	

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 Gabrielle Calabro (“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 May 9, 2024, Applicant applied for a Kansas resident individual insurance producer license.
2. On June 14, 2024, Kansas Department of Insurance (“Department”) staff notified Applicant by letter that her application was denied based on K.S.A. 40-4909(a)(1) and K.S.A. 40-4909(b).
3. On June 17, 2024, Applicant timely filed a request for a hearing.
4. On June 21, 2024, a Notice of Prehearing Conference (“Notice”) scheduling the matter for prehearing conference on July 31, 2024, was sent to Applicant via United States Mail and by email. Enclosed with that Notice was a Prehearing Questionnaire (“PHQ”).
5. The Notice indicated that “[a] party who fails to attend the prehearing conference, hearing, or other stage of an adjudicative hearing may be held in default under [the Kansas Administrative Procedure Act].”

6. The Notice directed the Applicant to complete and return the PHQ to the Department by 5:00 p.m. on July 24, 2024. It further stated that failure to submit the completed PHQ to the Department by the deadline established in the Notice “may result in a default ruling.”

7. Applicant failed to submit her PHQ as directed.

8. On July 26, 2024, the Presiding Officer’s assistant notified Applicant by email that the Presiding Officer had determined that her completed PHQ must be submitted by 5:00 p.m. on that same day, *i.e.* on July 26, 2024, or the Prehearing Conference scheduled for July 31, 2024, would be canceled and would likely result in the Presiding Officer issuing a proposed default order which could result in the dismissal of her hearing request and denial of her application.

9. By a later email on July 26, 2024, the Applicant requested an “extension to hearing” and a “reconsider[ation of] this decision,” stating that she had been moving and was currently unemployed.

10. By email to the Applicant of July 29, 2024, the Presiding Officer’s assistant advised that the Presiding Officer granted the Applicant’s request for an extension and proposed new dates for the Prehearing Conference. By email of later the same day, the Applicant chose the date of September 11, 2024.

11. A Notice of Prehearing Conference Reschedule (“Notice of Reschedule”) was issued on July 30, 2024, indicating the Prehearing Conference would be held via conference call on September 11, 2024, at 2:00 p.m. CDT. It also stated that the Applicant must submit her completed PHQ to the Department by September 4, 2024, and stated, that “[f]ailure to do so will result in cancellation of the rescheduled hearing.” The Notice of Reschedule also stated:

- All other information, terms and conditions set forth in the Notice of Prehearing Conference dated June 21, 2024, remain in force and effect.
- “There will be no further extensions granted in the matter.”

- A party who fails to attend the prehearing conference, hearing, or other stage of an adjudicative proceeding may be held in default pursuant to K.S.A. 77-520.

12. In a July 30, 2024, email enclosing the Notice of Reschedule, the Presiding Officer's assistant reminded the Applicant that her completed PHQ must be returned by 5:00 p.m. on September 4, 2024. A copy of the PHQ form was attached for her convenience.

13. The Presiding Officer's assistant emailed to the Applicant call-in information for the September 11, 2024, Prehearing Conference. By email on July 30, 2024, the Presiding Officer's assistant received notification Applicant accepted this invitation.

14. On September 1, 2024, the Applicant sent the Presiding Officer's assistant an email requesting a rescheduling of the Prehearing Conference until October of 2024.

15. In a separate email on September 1, 2024, the Applicant indicated she was having difficulty opening the electronically-sent PHQ. She again requested a rescheduling of the Prehearing Conference to October.

16. By email of September 3, 2024, the Presiding Officer's assistant advised the Applicant that the Presiding Officer declined to grant the Applicant another extension. The Applicant was reminded that the July 30, 2024, Notice of Prehearing Conference Reschedule clearly stated there would be no further extensions granted in the matter.

17. The Applicant was further reminded that her PHQ form had been sent to her via U.S. Mail and email on June 24, 2024, and again on July 30, 2024, and it was unclear why she was not able to complete the PHQ as required. The Applicant was again reminded that, "[t]he completed prehearing questionnaire is due by September 4, 2024, at 5:00 p.m. (CDT)."

18. By a September 4, 2024, email to the Presiding Officer's assistant, the Applicant requested that the PHQ form be sent to her in .jpeg format. By another email the same day the Applicant reiterated her request for a rescheduling of the matter.

19. By a September 5, 2024, email, the Presiding's Officer's assistant provided the Applicant the PHQ form in .jpeg format. The Applicant was advised that the Presiding Officer confirmed that "she is not going to grant any more extensions," and that the PHQ must be completed and returned to the Department by 5:00 p.m. on September 5, 2024, or the Prehearing Conference scheduled for September 11, 2024, would be cancelled and an Order of Proposed Default would be issued.

20. The Applicant submitted pages 1 and 3 of her PHQ.

21. On September 6, 2024, the Presiding Officer's assistant notified the Applicant that her PHQ was incomplete because pages 2 and 4 of the PHQ were missing. The Applicant was further advised that she needed to submit those pages by 5:00 p.m., September 6, 2024, or the Prehearing Conference, scheduled for September 11, 2024, would be cancelled and an Order of Proposed Default "will" be issued. The Applicant was further advised that the Presiding Officer "is not going to grant any more extensions in this matter."

22. On September 7, 2024, the Applicant submitted pages 2 and 4 of her PHQ.

23. On September 11, 2024, at 2:00 p.m. CDT, the Presiding Officer, accompanied by an attorney assisting her and the Department's Counsel, attempted to convene the Prehearing Conference. The Notice of Reschedule indicated that the Prehearing Conference would be held by telephone conference call and the Applicant had been provided call-in instructions by the Presiding Officer's assistant. The Presiding Officer placed the conference call three (3) times; however, the Applicant did not join the conference call. The Applicant did not contact the

Presiding Officer's assistant to report difficulty in connecting to the call, nor has she contacted the Presiding Officer's office at anytime thereafter with an explanation for her non-appearance.

24. As a result of the Applicant's failure to join the conference call to participate in the Prehearing Conference, the previously-scheduled Prehearing Conference was not and could not be held.

Applicable Law

25. Before approving an application for a license, the Commissioner must determine the applicant has not committed any act that constitutes grounds for denial pursuant to K.S.A. 40-4909. K.S.A. 40-4905(b).

26. Further, 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.

27. In addition, pursuant to K.S.A. 40-4909(b), the Commissioner may deny a license if the insurable interests of the public are not properly served under such license

28. Pursuant to K.S.A. 40-4909(d), "[a]ny 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 procedure act."

29. Pursuant to K.S.A. 77-520(a), "[i]f 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."

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

31. Pursuant to K.S.A. 77-520(c), “[t]he 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.”

32. Pursuant to K.S.A. 77-520(e), “[i]f 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

33. 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.

34. 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. K.S.A. 77-547, K.S.A. 77-514.

35. The Presiding Officer, on behalf of the Commissioner finds, as a matter of law, that a Proposed Default Order should be served in accordance with K.S.A. 77-520, based on Applicant’s failure to attend the scheduled Prehearing Conference in this matter.

IT IS THEREFORE ORDERED that the Applicant may 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 the Applicant’s failure to file a timely written motion to vacate WILL RESULT IN THIS ORDER BECOMING EFFECTIVE AS A FINAL

ORDER and the Applicant's application for a Kansas resident insurance producer's license will be DENIED.

IT IS SO ORDERED THIS 17th DAY OF SEPTEMBER, 2024, 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 Department of Insurance is:

Kimberley Davenport Megrail, Senior Attorney
Kansas Department of Insurance
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. 77-613). 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 Department of Insurance is:

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

Pursuant to K.S.A. 77-607 and 77-612, exhaustion of administrative remedies is a jurisdictional prerequisite to seeking judicial review.

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 17th day of September 2024, by causing the same to be electronically mailed and placed in the United States Mail, first class postage prepaid and properly addressed to the following:

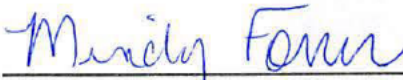
Gabrielle Calabro
[REDACTED]
Overland Park, KS 66061
[REDACTED]@gmail.com

Applicant

And a copy also this same day hand-delivered to the following:

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

Counsel for the Kansas Department of Insurance



Mindy Forrer
Assistant to the Presiding Officer