

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

In the Matter of the Refusal to Renew)	
and Revocation of a)	
Kansas Nonresident Insurance Producer’s)	Docket No. 104095
License of CHERIE HENICK)	
NPN # 1667520)	

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 refusal to renew and revocation of Cherie Henick (“Respondent”) for a Kansas nonresident insurance producer’s license by Default Order, as provided by K.S.A. 77-520.

Findings of Fact

1. On September 30, 2023, Respondent applied for a renewal of a Kansas nonresident individual insurance producer license.
2. On January 30, 2024, the Kansas Insurance Department (“Department”) issued a Summary Order Refusal to Renew and Revocation (“Summary Order”) based on K.S.A. 40-4909(b). The Department’s action was based largely upon a pending felony charge against the Respondent for possession of a controlled substance and unlawful possession of drug paraphernalia which occurred on or about August 2, 2023.
3. On February 9, 2024, Respondent filed a timely request for a hearing.
4. On February 20, 2024, a Notice of Prehearing Conference scheduling the prehearing conference for March 22, 2024, at 10:00 a.m. (CST) was sent to Respondent via United States Postal Service and email. Enclosed with the Notice of Prehearing Conference was a Prehearing Questionnaire. The Notice of Prehearing Conference specifically stated:

A party who fails to attend the prehearing conference, hearing, or other stage of an adjudicative proceeding may be held in default under KAPA.”

5. Upon request of the Respondent, The Prehearing Conference was rescheduled to April 30, 2024, at 2:00 p.m. (CDT).

6. On April 30, 2024, at 2:00 p.m. CDT, the Prehearing Conference was held via conference call. The Respondent appeared pro se and the Department appeared by counsel, Kimberley Davenport-McGrail. The Presiding Officer reviewed the prehearing questionnaires submitted by each party. The Respondent indicated she intended to enter into a plea agreement at an upcoming court date on May 14, 2024. She further indicated she believed that the court would enter a Suspended Imposition of Sentence, place her on probation for two years, and require her to participate in a drug program.

7. On May 14, 2024, a Prehearing Order was issued and sent to Respondent via United States Postal Service and email. The Prehearing order directed the Respondent to provide the Department with additional documentation, after which a date for the formal hearing would be scheduled. The Respondent was to provide following documentation:

- a. A full copy of the Miller County Sheriff's Office offense/incident report dated August 2, 2023, for complaint number [REDACTED]
- b. Documentation reflecting the Respondent's plea, sentencing (such as Suspended Imposition of Sentence or Deferred Adjudication) and details regarding any probation imposed at her scheduled May 14, 2024, court appearance for Miller County Case Number [REDACTED]. Documentation should include, if applicable, any order to attend a [REDACTED] program, including the specific requirements for satisfactory completion of the program, and other terms and conditions of her probation.

8. The Department's counsel notified the Respondent by email on June 17, 2024, that the above documentation had not been received. Respondent was advised in the email of her options to schedule a hearing date on the revocation of her license, enter into a Consent Order with

the Department to surrender license in lieu of revocation, or withdraw her hearing request. Respondent did not reply to this communication.

9. Department's counsel sent a second email to Respondent on June 26, 2024, stating that the Department was awaiting the requested documentation. Respondent was directed to provide a response to the email on or before close of business July 12, 2024. Respondent was notified that failure to respond would result in the Department withdrawing the offer of a Consent Order for the surrender of her license, and proceeding on the Summary Order.

10. To this date, Respondent has not communicated with the Department or submitted the requested documentation.

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(b), the Commissioner may deny a license if 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. Under K.S.A. 40-4909(a)(17), the Commissioner may revoke or refuse to renew an applicant's license if the applicant fails to respond to an inquiry by the commissioner or commissioner's staff within 15 business days.

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."

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.

Conclusions and Order

20. The Commissioner has jurisdiction over the Respondent as well as the subject matter of this proceeding.,

21. The Commissioner finds that Respondent's failure to respond to the Department's communications and provide the documentation as set forth in the Prehearing Order constitutes a failure to participate in a required stage of an adjudicative proceeding. In addition, Respondent's failure to respond to the Department's communications is additional grounds for revocation or nonrenewal of her license. Therefore, a Proposed Default Order is appropriate and should be served in accordance with K.S.A. 77-520.

IT IS THEREFORE ORDERED THAT THE RESPONDENT 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 THE FOLLOWING:

1. Full copy of the Miller County Sheriff's Office offense/incident report dated August 2, 2023, complaint number [REDACTED]
2. Documentation reflecting her plea, sentencing (such as Suspended Imposition of Sentence or Deferred Adjudication) and details regarding any probation imposed at her scheduled May 14, 2024, court appearance for Miller County Case Number [REDACTED]. Documentation should include, if applicable, any order to attend a [REDACTED] program, including the specific requirements for satisfactory completion the program, as well as other terms and conditions of probation.

If a written request to vacate accompanied by the required documentation is not timely received, the respondent's proceeding WILL BE DISMISSED.

IT IS FURTHER ORDERED THAT Respondent's failure to file a timely written motion to vacate **WILL RESULT IN THIS ORDER BECOMING EFFECTIVE AS A FINAL ORDER** and the Department's refusal to renew and revocation of the Respondent's Kansas nonresident insurance producer's license will be **UPHELD.**

IT IS SO ORDERED THIS 9th DAY OF AUGUST 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 to file a written Request to Vacate. A written Request 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 written Request 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. 77-613). 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 Insurance Department is:

Justin L. McFarland, General Counsel
Kansas Insurance Department
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 9th day of August 2024, by causing the same to be electronically mailed and placed in the United States Mail, first class postage prepaid addressed to the following:

Cherie Henik


[REDACTED]
Independence, MO 64055

[REDACTED]

Respondent

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