

**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 KARSON KLIMA)	Docket No. 106840
NPN # 21137471)	

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 Karson Klima (“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 April 11, 2024, Applicant applied for a Kansas resident individual insurance producer license.
2. On May 10, 2024, the Kansas Department of Insurance (“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 14, 2024, Applicant filed a timely request for a hearing.
4. On May 15, 2024, the Notice of Prehearing Conference with a copy of the Prehearing Questionnaire enclosed was sent to Applicant via United States Postal Service and email.
5. On June 24, 2024, Applicant submitted his completed Prehearing Questionnaire.
6. On July 9, 2024, at 2:30 p.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. The Presiding Officer discussed, *inter alia*, the separate issues underlying the Department's denial which would be addressed at the hearing, the witnesses the parties intended to testify at the formal hearing, and additional discovery requested by the Department. Of note, the Applicant advised that he was currently residing in Tampa, Florida, and provided his new address. He further advised he had been living there for approximately a month and a half and had signed a one-year lease agreement.

7. A formal hearing was scheduled for August 29, 2024, at 2:00 p.m. CDT.

8. On July 26, 2024, a Prehearing Order and Notice of Hearing ("Prehearing Order") was sent to Applicant at both the Kansas address (contained in his application) as well as the Florida address (provided at the hearing) via United States Postal Service. The Prehearing Order was also sent to the Applicant's email address provided by him in his Request for Hearing. In response to the Department's request for additional documentation, the Prehearing Order directed the Applicant as follows:

- a) Provide a copy of your apartment lease agreement for [REDACTED], Tampa, FL 33607.
- b) Provide a copy of the Diversion Agreement entered on September 14, 2023, with the Derby City Prosecutor's Office, for Case No. 202303568, Disorderly conduct (Misdemeanor), containing the terms and conditions of diversion.
- c) Provide legible copies of the charging documents, "Uniform Criminal Complaint and Notice to Appear Municipal Court" of the city of Derby for both Darah Klima and Demi Klima. In addition, the Applicant should provide a copy of any formal indictment or charging document filed by the Derby City Prosecutor.
- d) Provide documentation regarding the disposition of the two original charges of domestic violence (battery) charged under K.S.A. 21-5414 and the original charge of criminal damage to property charged under K.S.A. 21-5213.

The Prehearing Order indicated the documentation was to be provided to the Department "as soon as possible, **but no later than Thursday, August 15, 2024.**"

9. The Prehearing Order also specifically stated:

In addition, a party who fails to attend the prehearing conference, hearing, or other stage of an adjudicative proceeding may be held in default under KAPA. [Emphasis in original.]

10. The Prehearing Order directed Department's counsel to confer with the Department's legal and producer licensing staff to determine, based upon the documentation to be provided by the Applicant, whether the Department had jurisdiction to issue the Applicant a resident insurance producer license given his indication that he had leased an apartment in Tampa, Florida, and is now residing there.

11. On August 2, 2024, Applicant was notified by email that a scheduling conflict has arisen which necessitated rescheduling the hearing scheduled for August 29, 2024. The Presiding Officer's assistant provided the Applicant with proposed dates and times to choose for rescheduling the hearing. Importantly, he was also reminded that the additional documentation requested by the Department was still due by August 15, 2024.

12. On August 8, 2024, a Notice of Cancellation of Hearing was issued by the Presiding Officer and sent to Applicant to both the Kansas and Florida addresses via United States Postal Service and also by email. The Notice of Cancellation provided that the Presiding Officer's assistant would work with the Applicant to reschedule the hearing, and further specifically stated that all other "terms and conditions set forth in the Prehearing Order and Notice of Hearing dated July 26, 2024, remain[ed] in force and effect." The Notice of Cancellation specifically stated:

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. 770520(a).

13. In the email accompanying the Notice of Cancellation, the Applicant was again provided with proposed dates and times available for rescheduling the hearing. The Presiding Officer's assistant also telephoned the Applicant at the phone number the Department has on file for the Applicant and left a voice message stating the above.

14. After not receiving a response from the Applicant, the Presiding Officer's assistant sent a follow up email on August 16, 2024, advising the Applicant that he needed to communicate with her to select a day for the hearing by August 30, 2024. It also advised him that the documentation he was directed to provide by August 15, 2024, had not been received; but the Presiding Officer had extended the deadline for submission of those documents to August 30, 2024.

15. On September 3, 2024, the Presiding Officer's assistant sent a follow up email to Applicant stating he failed to respond with a date to reschedule the hearing and also failed to provide the additional documentation requested which was due no later than August 30, 2024. The Applicant was also notified that no further extensions would be granted on either selecting a hearing date or providing the required documentation, and failure to respond by 5:00 p.m. CDT on September 6, 2024, would likely result in the Presiding Officer issuing a proposed default order. A copy of the Prehearing order and Notice of Hearing was attached to the email for Applicant's reference. The Presiding Officer's assistant also telephoned the Applicant at the phone number Department has on file for the Applicant and left a voice message stating the above.

16. To date, the Applicant has failed to communicate with the Presiding Officer's assistant to select a hearing date and further, has failed to provide the documentation requested by the Department as set forth in the Prehearing Order.

Applicable Law

17. 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).

18. 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.

19. 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.

20. 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.”

21. 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.”

22. 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.

23. 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.”

24. 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

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

26. 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.

27. The Presiding Officer considers the above-stated facts to constitute grounds for a proposed default order on the basis that the Applicant has failed to respond to the to provide the Department with additional documentation, as set forth in the Prehearing Order and failed to respond with a date to reschedule the hearing, despite two extensions of time given by the Presiding Officer to comply with these requirements. The Applicant also failed to respond to the Presiding Officer’s assistant’s numerous inquiries and communications about the matter. Such failure has prevented the Department from being able to determine, as ordered by the Presiding Officer, whether it has jurisdiction to issue the Applicant a resident insurance producer license and further prevented the Presiding Officer from scheduling a hearing date, which constitute failure to participate in a stage of the adjudicative hearing process.

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 the following:

- a) A copy of the apartment lease agreement for [REDACTED], Tampa, FL, 33607.
- b) A copy of the Diversion Agreement entered on September 14, 2023, with the Derby City Prosecutor's Office, for Case No. 202303568, Disorderly conduct (Misdemeanor), containing the terms and conditions of diversion.
- c) Legible copies of the charging documents, "Uniform Criminal Complaint and Notice to Appear Municipal Court" of the city of Derby for both Darah Klima and Demi Klima. In addition, the Applicant should provide a copy of any formal indictment or charging document filed by the Derby City Prosecutor.
- d) Documentation regarding the disposition of the two original charges of domestic violence (battery) charged under K.S.A. 21-5414 and the original charge of criminal damage to property charged under K.S.A. 21-5213.
- e) The selection of the date for the formal hearing time: Either 10:00 a.m. on October 30, 2024, or 2:30 p.m. on November 5, 2024.
- f) Payment of the required \$500.00 Hearing Fee.

If a written request to vacate accompanied by the required documentation, selection of a hearing date, 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**.

IT IS SO ORDERED THIS 12th 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
Kansas Department of Insurance
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. 77-613). 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 666044

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 12th day of September 2024, by causing the same to be electronically mailed and placed in the United States Mail, first class postage prepaid addressed to the following:

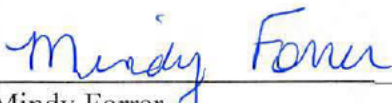
Karson Klima
[REDACTED]
Derby, KS 67037
[REDACTED]@gmail.com
Applicant

And at additional address:

Karson Klima
[REDACTED]
Tampa, FL 33607
[REDACTED]@gmail.com
Applicant

And 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
Legal Assistant