

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

In the Matter of the Application for a)	
Kansas Nonresident Insurance Producer’s)	
License of DONICKA MARKOVICH)	Docket No. 106223
NPN # 20623589)	

NOTICE OF CANCELLATION OF PREHEARING CONFERENCE
AND
PROPOSED DEFAULT ORDER

PART I: CANCELLATION OF PREHEARING CONFERENCE.

PLEASE TAKE NOTICE that Presiding Officer Barbara W. Rankin has canceled the Prehearing Conference in the above-referenced case that was scheduled for **June 6, 2024, at 10:00 a.m.**

Donicka Markovich (“Applicant”) requested a hearing on a “Decision on License Application” issued by the Kansas Department of Insurance (“Department”) by submitting a written Request for Hearing dated April 5, 2024. In this request form she acknowledged that “in the event a hearing is scheduled, [she] would be responsible to pay investigative and hearing costs in the amount of \$500 *prior to the hearing date.*” [Emphasis added.]

A Notice of Prehearing Conference (“Notice”) and Prehearing Questionnaire (“PHQ”) were mailed via the U.S. Postal Service and also electronically mailed to the Applicant on April 15, 2024. The Notice provided that the Prehearing Conference was scheduled for June 6, 2024, and directed that the enclosed Prehearing Questionnaire “**must be completed and returned to the Department by Thursday, May 30, 2024. “Failure to do so may result in a default ruling.”**”

There have been numerous email exchanges between the Applicant, the Department’s Counsel and the Presiding Officer’s Assistant, encompassing the following issues:

1. The Applicant requested that the hearing fee be waived and to speak to the Commissioner. The Presiding Officer's assistant advised the hearing fee could not be waived and did not need to be paid until one week prior to the date of the formal hearing.
2. The Applicant requested to cancel her hearing request and to withdraw her application. Department's Counsel responded advising the Applicant she could withdraw her hearing request and the consequences of doing so.
3. Applicant again advised she was not able to pay the \$500 hearing fee and asked whether the hearing could be delayed or could be reconsidered without an appeal. Department's counsel advised the hearing process served as a reconsideration of the Department's decision, and reminded the Applicant the hearing fee was not required to be paid until one week prior to the date the hearing was scheduled to be held, which would likely be in late June or early July. Department's Counsel reiterated the fee did not need to be paid prior to the prehearing conference, and asked the Applicant to advise the Department whether she wished to proceed with the hearing or to withdraw her hearing request.

The Prehearing Questionnaire was not returned by the May 30, 2024, deadline nor did the Applicant indicate that she wanted to withdraw her hearing request. The Presiding Officer's assistant notified the Applicant by email on June 3, 2024, that the Prehearing Questionnaire must be returned by 5:00 p.m. (CDT) on June 3, 2024, or the Prehearing Conference would be canceled, and a Proposed Default Order would be issued. To date, the Prehearing Questionnaire has not been received from Applicant. The Applicant advised she did not want to withdraw her hearing request but could not pay the \$500.00 hearing fee. The Applicant also declined the calendar invitation containing the conference call instructions sent to her for the Prehearing Conference.

Therefore, the Prehearing Conference scheduled for June 6, 2024, is canceled.

PART II: 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 the Applicant for a Kansas nonresident insurance producer’s license by Default Order, as provided by K.S.A. 77-520.

Findings of Fact

1. On March 5, 2024, Applicant applied for a Kansas nonresident individual insurance producer license.

2. On March 29, 2024, the Kansas Insurance Department (“Department”) staff notified Applicant by letter that the application was denied based K.S.A. 40-4909(a)(6) and K.S.A. 40-4909(b).

3. On April 5, 2024, Applicant filed a timely request for a hearing by submitting the required Hearing Request form.

4. In the Hearing Request Form, the Applicant acknowledged that “in the event a hearing is scheduled, [she] would be responsible to pay investigative and hearing costs in the amount of \$500 prior to the hearing date.”

5. On April 15, 2024, a Notice of Prehearing Conference (“Notice”) scheduling the prehearing conference for June 6, 2024, was sent to Applicant via the U.S. Postal Service and by email. Enclosed with the Notice was a Prehearing Questionnaire (“PHQ”).

6. The Notice directed the Applicant to complete and return the PHQ to the Department by a date set forth in the Notice. 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 the Prehearing Questionnaire as directed.

8. On June 3, 2024, the Applicant was notified by email by the Presiding Officer's assistant that the PHQ must be submitted by 5:00 p.m. on June 3, 2024, or the Prehearing Conference scheduled for June 6, 2024, would be canceled, and may result in the Presiding Officer issuing a proposed default order.

9. The Applicant was further advised she did not need to pay the \$500.00 hearing fee prior to the Prehearing Conference, but rather one week prior to the date for the formal hearing, which would be scheduled during the Prehearing Conference.

10. To date, the Applicant has not submitted her PHQ.

11. A Notice of Cancellation of Prehearing Conference is included in Part I of this Proposed Default Order.

Applicable Law

12. Before approving an application for a license, the Commissioner of Insurance ("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. 40-4906(a).

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(b), the Commissioner may deny a license if the insurable interests of the public are not properly served under such license.

15. K.S.A. 40-4909(g) specifically authorizes the Commissioner of Insurance to charge costs associated with conducting an administrative hearing requested by a person who has been denied an insurance producer's license.

16. 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.”

17. 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.”

18. 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.

19. 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.”

20. 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

21. 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.

22. 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.

23. The Commissioner of Insurance has clear authority to assess costs of an administrative hearing requested in connection with the denial of a license against the person requesting the hearing.

24. Had the Applicant participated in the Prehearing Conference as required, the Presiding Officer could have considered the Applicant's request to delay the scheduling of the formal hearing to afford the Applicant additional time to pay the fee.

25. The Commissioner finds that Applicant failed to submit the Prehearing Questionnaire which constitutes the failure to participate in a stage of an adjudicative proceeding. Her alleged inability to pay the hearing fee did not excuse her failure to submit the Prehearing Questionnaire or participate in the Prehearing Conference as the fee did not need to be paid at this time. Accordingly, the Commissioner finds 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).

IT IS FURTHER ORDERED THAT the written request to vacate must be accompanied by a completed prehearing questionnaire. If a written request to vacate, along with the completed prehearing questionnaire, 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 the DEPARTMENT'S DENIAL OF THE APPLICANT'S APPLICATION

FOR A KANSAS NONRESIDENT INSURANCE PRODUCER'S LICENSE WILL ALSO BECOME A FINAL ORDER.

IT IS SO ORDERED THIS 5th DAY OF JUNE, 2024, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



VICKI SCHMIDT
COMMISSIONER OF INSURANCE

BY:

Barbara W. Rankin
Assistant Commissioner
Presiding Officer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Notice of Cancellation of Prehearing Conference and Proposed Default Order was served on this 5th day of June 2024, by causing the same to be electronically mailed and placed in the United States Mail, first class postage prepaid addressed to the following:

Donicka Markovich

[REDACTED]

Salt Lake City, UT 84117

[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