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INSURANCE DEPARTMENT  
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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
MATTHEW H. LEVIN	:	Sections 611-A(20) and 696-A of
115 Mary Waters Ford Road	:	Act 147 of 2002 (40 P.S.
Bala Cynwyd, PA 19004	:	§§ 310.11 and 310.96)
	:	
LASTER, SAMANS & LEVIN, INC.	:	Section 1621 of the Surplus Lines
Lafayette Building	:	Act, Act of May 17, 1921, P.L. 682,
437 Chestnut Street, Suite 701	:	<i>added by</i> the Act of December 18,
Philadelphia, PA 19106	:	1992, P.L. 1519 (40 P.S. § 991.1621)
	:	
Respondents.	:	Docket No. CO07-06-034

CONSENT ORDER

AND NOW, this *5<sup>th</sup>* day of *October*, 2007, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondents hereby admit and acknowledge that they have received proper notice of their rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondents hereby waive all rights to a formal administrative hearing in this matter, and agree that this Consent Order, and the Findings of Fact and Conclusions of Law contained herein, shall have the full force and effect of an Order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra or other applicable law.

## FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following

Findings of Fact:

- (a) Respondent is Matthew H. Levin, and maintains his address at 115 Mary Waters Ford Road, Bala Cynwyd, PA 19004.
- (b) Respondent is Laster, Samans & Levin, Incorporated (hereinafter, "Laster"), which maintained a business address at the Lafayette Building, 437 Chestnut Street, Suite 701, Philadelphia, Pennsylvania 19106.
- (c) Respondent Levin has an active resident surplus lines certificate of eligibility license #224032 that expires on February 29, 2008, and an active resident individual producer license that expires on January 29, 2009.
- (d) Respondent Laster has an active resident producer agency license #55520 that expires on December 4, 2007.
- (e) Between November, 2000 and November, 2006, Laster's office staff received gross premium from at least sixty-four (64) insureds for the placement of coverage, largely in the surplus lines market.
- (f) During this time, Laster would frequently pay premiums on various policies instead of forwarding the insureds' premiums to their designated accounts.

- (g) The activity referenced above was a common practice of Respondent Levin's father, the previous owner of the agency (deceased in 2000), who moved funds between accounts to stay current. This practice was continued by the Laster office staff after Levin's father's death.
- (h) Respondents' lack of diligence failed to identify and correct such practice.
- (i) As of December 13, 2006, this practice resulted in an estimated shortage of \$739,705.53.
- (j) Respondent Levin, upon learning the full impact of such practices, promptly self-reported all such facts to the Pennsylvania Insurance Department.
- (k) The Pennsylvania Department of Revenue reported that surplus lines taxes in the amount of approximately \$22,191.15 were not remitted for the above policies.
- (l) Respondents have agreed to voluntarily surrender their licenses.

#### CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department concludes and finds the following Conclusions of Law:

- (a) Respondents are subject to the jurisdiction of the Pennsylvania Insurance Department.

- (b) Section 611-A(20) of Act 147 of 2002 prohibits a license from demonstrating a lack of general fitness, competence or reliability sufficient to satisfy the department that the license is worthy of licensure (40 P.S. § 310.11).
- (c) Respondents' activities described above in paragraphs 3(e) through 3(k) violates Section 611-A(20) of Act 147 of 2002.
- (d) Section 696-A of Act 147 of 2002 requires every insurance producer to be responsible in a fiduciary capacity for all funds received or collected as an insurance producer (40 P.S. § 310.96).
- (e) Respondents' activities described above in paragraphs 3(e) through 3(k) constitute a violation of acting in a responsible fiduciary capacity when handling funds received or collected as a producer and violates Section 696-A of Act 147 of 2002 (40 P.S. § 310.96).
- (f) Respondents' violations of Sections 611-A(20) and 696-A of Act 147 of 2002 are punishable by the following, under Section 691-A of Act 147 of 2002 (40 P.S. § 310.91):
  - (i) suspension, revocation or refusal to issue the certificate of qualification or license;
  - (ii) imposition of a civil penalty not to exceed five thousand dollars (\$5,000.00) for each violation of the Act;
  - (iii) an order to cease and desist; and

- (iv) any other conditions as the Commissioner deems appropriate.
- (g) Section 1621 of the Surplus Lines Act (40 P.S. § 991.1621) requires a tax of three percent to be levied against insureds on all premiums charged, and for that tax to be collected by the licensee and remitted to the Pennsylvania Department of Revenue.
- (h) Respondents' activities described above in paragraphs 3(e) through 3(k) constitute failure to collect and remit the required three percent surplus lines premium tax, and violate Section 1621 of the Surplus Lines Act.
- (i) Respondents' violations of Section 1621 of the Surplus Lines Act are punishable by the following, under Section 1625(b) of the Insurance Company Law:
  - (j) imposition of a penalty not exceeding \$1,000 for the first offense and \$2,000 for each succeeding offense.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondents consent to the following:

- (a) Respondents shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

- (b) Respondents shall surrender all licenses/certificates to conduct the business of insurance within the Commonwealth of Pennsylvania as of the date of this Consent Order.
- (c) Respondents shall make restitution to the Pennsylvania Department of Revenue in the amount of approximately \$22,191.
- (d) If Respondents should ever become licensed in the future, the certificates and licenses may be immediately suspended by the Department following its investigation and determination that (i) any terms of this Order have not been complied with, or (ii) any complaint against Respondents is accurate and a statute or regulation has been violated. The Department's right to act under (ii) above is limited to a period of five (5) years from the date of issuance of such certificates and licenses.
- (e) Respondents specifically waive the right to prior notice of said suspension, but will be entitled to a hearing upon written request received by the Department no later than thirty (30) days after the date the Department mailed to Respondents by certified mail, return receipt requested, notification of said suspension, which hearing shall be scheduled for a date within sixty (60) days of the Department's receipt of Respondents' written request.

- (f) At the hearing referred to in paragraph (e) of this Order, Respondents shall have the burden of demonstrating that they are worthy of an insurance certificate and license.
- (g) In the event Respondents' certificates and licenses are suspended pursuant to paragraph 5(e) above, and Respondents either fail to request a hearing within thirty (30) days or at the hearing fail to demonstrate that they are worthy of a certificate and license, Respondents' suspended certificates and licenses shall be revoked.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein, the Department may pursue any and all legal remedies available, including but not limited to the following: The Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provisions of this Order in any other court of law or equity having jurisdiction.

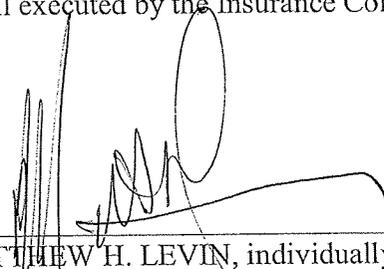
7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

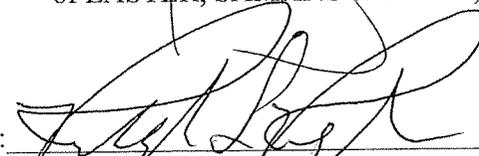
8. In any such enforcement proceeding, Respondents may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

9. Respondents hereby expressly waive any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

By:   
MATTHEW H. LEVIN, individually and on behalf  
of LASTER, SAMANS & LEVIN, Respondents

By:   
COMMONWEALTH OF PENNSYLVANIA  
Randolph L. Rohrbaugh  
Deputy Insurance Commissioner