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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of)

Jay M. Levy,)

Licensee.)

Docket No. 11-0047

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND FINAL ORDER**

TO: Jay M. Levy
3370 NE 190th St., #3211
Miami, FL 33180

Michael Camilleri, Esq.
Matrix Insurance Consulting, LLC
P.O. Box 880625
Boca Raton, FL 33488

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Robin Aronson, Staff Attorney, Legal Affairs Division
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Olympia, WA 98504-0255

Pursuant to RCW 34.05.434, 34.05.461, 48.04.010 and WAC 10-08-210, and after notice to all interested parties and persons the above-entitled matter came on regularly for hearing before the Office of Insurance Commissioner for the state of Washington commencing at 10:00 a.m. on June 17, 2011. All persons to be affected by the above-entitled matter were given the right to be present at such hearing during the giving of testimony, and had reasonable opportunity to inspect all documentary evidence. The Insurance Commissioner appeared pro se, by and through Robin Aronson, Esq., Staff Attorney in his Legal Affairs Division. Jay M. Levy appeared, along with his attorney Michael Camilleri, Esq. of Matrix Insurance Consulting, L LC.

NATURE OF PROCEEDING

The purpose of the hearing was to take testimony and evidence and hear arguments as to whether the Insurance Commissioner's Order Revoking License, No. 11-0047, entered by the Insurance Commissioner on March 1, 2011, should be confirmed, set aside or modified. Said Order Revoking License revokes the Washington nonresident producer's license of Jay Levy, based upon the facts alleged therein. By letter dated March 16, 2011, Jay Levy, by and through his attorney, Michael Camilleri, Esq. of Matrix Insurance Consulting, LLC in Boca Raton, Florida, requested this hearing to contest the Order revoking his nonresident producer's license.

FINDINGS OF FACT

Having considered the evidence and arguments presented at the hearing, and the documents on file herein, the undersigned presiding officer designated to hear and determine this matter finds as follows:

1. The hearing was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied. This Order is entered pursuant to Title 48 RCW and specifically RCW 48.04; Title 34 RCW; and regulations pursuant thereto.
2. On March 1, 2011, Jay Levy (the "Licensee") applied for a Washington nonresident producer's license, and on March 3, the Insurance Commissioner ("OIC") issued the Licensee a nonresident producer's license. On March 10, the OIC issued an Order Revoking License, No. 11-0047, revoking this license based upon the OIC's assertions that the Licensee had answered "no" to questions in his Washington application for a nonresident producer's license ("application"), statements which the OIC asserts were false. The OIC asserts that the Licensee was a defendant in a federal court action in Florida for securities fraud; that he was the subject of two prior disciplinary actions taken by the National Futures Association; that he submitted similar false statements in his Florida and California insurance producer's license applications; and that he has demonstrated himself to be incompetent, untrustworthy, or financially irresponsible, justifying revocation of his license. On March 16, the Licensee demanded a hearing to contest the OIC's revocation of his Washington license, asserting that the misinformation provided in his application was inadvertent and that he corrected these statements prior to the OIC's action; that he did not abscond with client funds or commit actions which suggest he is untrustworthy; and that his past character and reputation has been unblemished but for this disclosed proceeding; and that no other state has denied him an insurance producer's license.
3. The Licensee is an individual who is approximately 51 years old and is a resident of Florida. He has worked for many years in the financial industry in various positions. [Testimony of Levy.]

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4. On March 1, 2011, he applied for a Washington nonresident producer's license. Question No. 2 in this application reads: *Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?* The Licensee falsely answered "No" to this question. [OIC Ex. 2, Levy Application for Washington Nonresident Producer's License; Testimony of Levy.] In fact, in U.S. District Court for the Southern District of Florida, Case No. 05-80002-CIV-Hurley (Commodity Futures Trading Commission v. United Investors Group, Inc., et al) the Licensee was sued for fraudulent commodity trading activity. The court's Final Judgment imposed a civil penalty of \$600,000. against the Licensee for fraudulent commodity trading activity and ordered him to make restitution in the amount of \$146,350.88 to five commodity customers whom the court found the Licensee had fraudulently induced to make investments. As a result of this activity, the court also permanently enjoined the Licensee from engaging in commodity related activities. [OIC Ex. 6, Certified copy of Memorandum Opinion and Final Judgment of Injunctive and Other Equitable Relief Against Defendant Jay M. Levy (in U.S. District court for the Southern District of Florida Case No. 05-80002-CIV-Hurley); OIC Ex. 8, Commodity Future Trading Commission Press Release January 11, 2005; Testimony of Levy.] Further, the Licensee was the subject of prior disciplinary actions including two National Futures Association complaints that resulted in that Association's assessment of a \$20,000 fine against the Licensee together with three months enhanced supervisory procedures. [OIC Ex. 6.] Finally, the Licensee was also named as a party Respondent in at least three complaints before the U.S. Commodity Futures Trading Commission, CFTC Docket Nos. 04-R059, 04-R058 and 05-R031. [OIC Ex. 9, Orders of Dismissal on Commodity Futures Trading Commission dockets 04-R059, 04-R058, 05-R031.] Therefore, although he certified under penalty of perjury that all of the information submitted in his Application was true and complete, Levy's response to Question No. 2 was false.

5. Question No. 3 in the Licensee's application for a Washington nonresident producer's license reads: *Has any demand been made or judgment rendered against you ...?* The Licensee falsely answered "No" to this question as well. [OIC Ex. 2.] In fact, as found above in Finding No. 3, in U.S. District Court for the Southern District of Florida, Case No. 05-80002-CIV-Hurley (Commodity Futures Trading Commission v. United Investors Group, Inc., et al) the Licensee was sued for fraudulent commodity trading. The court's Final Judgment imposed a civil penalty of \$600,000 against the Licensee for fraudulent commodity trading activity, he was ordered to make restitution in the amount of \$146,350.88 to five customers whom the court found the Licensee had fraudulently induced to make investments, and the Licensee was permanently enjoined from engaging in commodity related activities. [OIC Ex. 6, Certified copy of Memorandum Opinion and Final Judgment of Injunctive and Other Equitable Relief Against Defendant Jay M. Levy (in U.S. District court for the Southern District of Florida Case No. 05-80002-CIV-Hurley); OIC Ex. 8, Commodity Future Trading Commission Press Release January 11, 2005; Testimony of Levy.] Further, as also found above, the Licensee was the subject of prior disciplinary actions including two National Futures Association complaints that resulted in that Association's assessment of a \$20,000 fine against the Licensee together with three months enhanced supervisory procedures. [OIC Ex. 6.] Finally, as also found above, the Licensee was also named as a party Respondent in at least three complaints before the U.S. Commodity Futures Trading Commission, CFTC Docket Nos. 04-R059, 04-R058 and 05-R031. [OIC Ex. 9,

Orders of Dismissal on Commodity Futures Trading Commission, Office of Proceedings, dockets 04-R059, 04-R058, 05-R031.] Therefore, although he certified under penalty of perjury that all of the information submitted in his Application was true and complete, Levy's response to Question No. 3 was false.

6. In his Memorandum Opinion and Final Judgment of Injunctive and Other Equitable Relief Against Defendant Jay M. Levy entered May 18, 2006 in U.S. District Court for the Southern District of Florida Case No. 05-80002-CIV-Hurley, the court stated:

Recognizing the gravity of the offenses, the brazen and intentional nature of the violations, the vulnerability of the victims, Levy's long history of flouting the authority of the Commission and his apparent unwillingness to reform his conduct, together with his remarkable lack of accountability or remorse for the transgressions established against him in this case, the court has determined that imposition of a substantial and meaningful CMP is justified.

By engaging in the activities set forth and found by the Court in its Memorandum Opinion and Final Judgment in U.S. District Court for the Southern District of Florida Case No. 05-80002-CIV-Hurley, the Licensee used fraudulent, coercive, or dishonest practices and demonstrated incompetence, untrustworthiness, or financial irresponsibility.

7. On March 1, 2011, in his Application for California Nonresident Producer's License, the Licensee made false statements in two questions which are similar to those found in his responses to the OIC's Questions 2 and 3 detailed above. [OIC Ex. 4, Application for California Nonresident Producer's License.] On August 13, 2010, in his Application for a Florida Resident Producer's License, the Licensee also made false statements in four questions which are similar to those found in his responses to the OIC's Question Nos. 2 and 3 detailed above. [OIC Ex. 5, Application for Florida Resident Producer's License.]

8. By responding, under penalty of perjury, to Question Nos. 2 and 3 with false answers as found above, the Licensee provided incorrect, misleading, incomplete, or materially untrue answers in his license application and the Licensee also obtained his Washington nonresident producer's license through misrepresentation or fraud. In so doing, the Licensee has also used fraudulent, coercive, or dishonest practices and demonstrated incompetence, untrustworthiness, or financial irresponsibility.

9. Melinda Green, Paralegal employed by Matrix Insurance Consulting, LLC which apparently helped the Licensee file his applications, testified by telephone on behalf of the Licensee. The purpose of her testimony was apparently to claim accountability for "inadvertently check[ing] the "NO" box in response to the question [No. 3.]" She went on to testify that Mr. Levy had authorized Matrix, her employer, to disclose copies of "the litigation materials" along with his application and therefore she emailed "all of the states" after the applications had been electronically filed and she included the copies of "the litigation materials Mr. Levy initially authorized Matrix ... to disclose." [Affidavit of Melinda Green; Testimony of

Melinda Green.] Ms. Green presented her testimony well, and in a clear and credible manner and exhibited no apparent biases. However, it is noted that she is employed by Matrix, which the Licensees' attorney herein either owns or is affiliated with. In addition, it does not appear that her testimony is supported by the evidence received during the proceeding, e.g., OIC Exs. 4 and 5 regarding sending the litigation materials to Florida and Canada. Further, there is no supporting evidence to support her statements that all of the other states to which the Licensee applied -- California, Illinois, Texas, New Jersey, New York and Pennsylvania -- have now granted the Licensee producer's licenses from their states.

10. Jay M. Levy, the Licensee, appeared as a witness on behalf of the Licensee. Mr. Levy denied any wrongdoing in the federal court matter detailed in these Findings of Facts and spent little or no time addressing the other administrative and legal matters to which he has been a party, also as detailed in these Findings of Facts. His defense primarily consisted of laying accountability on Ms. Green, not himself, for his false statements in not only his Washington insurance producer's applications but California and Florida and apparently all applications which he submitted to the various states. He presented his testimony in a fairly detailed manner, however, it lacked credibility.

11. John W. Oxendine, Esq., Insurance Commissioner for the State of Georgia elected for four terms (1995 to 2011), appeared as an expert witness on behalf of the Licensee. His testimony was allowed over objection of the OIC as set forth in the hearing record. Mr. Oxendine presented his testimony in a detailed and credible manner and exhibited no apparent biases.

12. Jeff Baughman, Licensing Manager with the OIC, appeared as a witness on behalf of the OIC. Mr. Baughman presented his testimony in a detailed and credible manner, and exhibited no apparent biases.

13. In his activities found above, the Licensee has shown himself to be, and is so deemed to be, untrustworthy and a source of injury and loss to the public and not qualified to be an insurance producer in the State of Washington. It is reasonable that the OIC's Order Revoking License, No. 11-0047, revoking the Washington nonresident producer's license of Jay M. Levy, should be upheld.

CONCLUSIONS OF LAW

1. Based upon the above Findings of Facts, it is hereby concluded that in responding falsely, under penalty of perjury, to Question Nos. 2 and 3 in his Washington Nonresident Insurance Producer's License Application, the Licensee provided incorrect, misleading, incomplete, or materially untrue answers in his license application, and thereby violated RCW 48.17.530(1)(a).

2. In responding falsely, under penalty of perjury, to Question Nos. 2 and 3 in his Washington Nonresident Producer's License Application, the Licensee attempted to obtain a license through misrepresentation or fraud, and thereby violated RCW 48.17.530(1)(c).

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3. RCW 48.17.530(1)(b) authorizes the OIC to revoke an insurance producer's license for violating any insurance law or regulation. It is hereby concluded that the OIC's action in revoking Levy's license pursuant to RCW 48.17.530(1)(b), based upon his violations of RCW 48.17.530(1)(a) and RCW 48.17.530(1)(c) is reasonable and should be upheld.

4. By engaging in the activities found by the Court in its Memorandum Opinion and Final Judgment in U.S. District Court for the Southern District of Florida Case No. 05-80002-CIV-Hurley, the Licensee used fraudulent, coercive, or dishonest practices and demonstrated incompetence, untrustworthiness, or financial irresponsibility as contemplated by RCW 48.17.530(1)(h). RCW 48.17.530(1) authorizes the OIC to revoke the license of any producer who has used fraudulent, coercive, or dishonest practices and demonstrated incompetence, untrustworthiness, or financial irresponsibility as contemplated by RCW 48.17.530(1)(h). It is hereby concluded that the OIC's action in revoking the Licensee's license pursuant to RCW 48.17.530(1) is reasonable and should be upheld.

ORDER

On the basis of the foregoing Findings of Facts and Conclusions of Law,

IT IS HEREBY ORDERED that the Washington State Insurance Commissioner's Order Revoking License, No. 11-0047, issued March 10, 2011, revoking the Washington Nonresident Insurance Producer's License of Jay M. Levy, is upheld.

IT IS FURTHER ORDERED that Jay M. Levy shall surrender his Washington Nonresident Producer's License to the Washington State Insurance Commissioner within 10 days of the date of entry of this Order.

This Order is entered at Tumwater, Washington, this 15th day of September, 2011, pursuant to Title 48 RCW, RCW 34.05, and regulations applicable thereto.



PATRICIA D. PETERSEN
PRESIDING OFFICER

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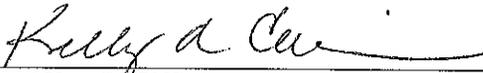
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Pursuant to RCW 34.05.461(3), the parties are advised that they may seek reconsideration of this order by filing a request for reconsideration under RCW 34.05.470 with the undersigned within 10 days of the date of service (date of mailing) of this order. Further, the parties are advised that, pursuant to RCW 34.05.514 and 34.05.542, this order may be appealed to Superior Court by, within 30 days after date of service (date of mailing) of this order, 1) filing a petition in the Superior Court, at the petitioner's option, for (a) Thurston County or (b) the county of the petitioner's residence or principal place of business; and 2) delivery of a copy of the petition to the Office of the Insurance Commissioner; and 3) depositing copies of the petition upon all other parties of record and the Office of the Attorney General.

Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Jay Levy, Michael Camilleri, Esq., Mike Kreidler, Michael G. Watson, John F. Hamje, Esq., Robin Aronson, Esq., and Carol Sureau, Esq.,

DATED this 15th day of September, 2011.


KELLY A. CAIRNS