

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT  
DIVISION OF INSURANCE  
PO BOX 110805  
JUNEAU, AK 99811-0805

Order # TA 21-02 )  
In the Matter of Audit of )  
Affinity Insurance Services Inc. )  
\_\_\_\_\_ )

FINDINGS OF FACT

1. An audit report of Affinity Insurance Services Inc., licensed in the State of Alaska, has been issued by the State of Alaska, Division of Insurance to Affinity Insurance Services Inc.
2. The audit report of Affinity Insurance Services Inc. (TA 21-02) has been transmitted to Kenneth MacKunis, Compliance Officer, Affinity Insurance Services Inc. (Auditee), and Auditee has been accorded at least 30 days' opportunity to review and comment on this audit report.
3. The director of the Division of Insurance has fully considered and reviewed the report and any relevant portions of the auditor's work papers to the extent she considered necessary.

CONCLUSIONS OF LAW

1. The written audit report referred to in Finding of Fact No. 1 was issued in accordance with Alaska Statute (AS) 21.06.150(b).
2. The actions set forth in finding of Fact No. 2 were conducted in accordance with AS 21.06.150(b).
3. The director of the Division of Insurance has reviewed the audit report and any other relevant work papers as set forth in Finding of Fact No. 3 to the extent she considered necessary in accordance with AS 21.06.150(b).

ORDER


IT IS ORDERED

1. Pursuant to AS 21.06.150(b)(1), the audit report of Affinity Insurance Services Inc. (TA 21-02) is approved as filed.

2. Pursuant to AS 21.06.060, the audit report shall be kept in the office of the director of the Division of Insurance and be open to public inspection.

This order is effective August 18, 2021.

Dated this 18 day of August, 2021 at Anchorage, Alaska.



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Lori Wing-Heier, Director  
State of Alaska  
Division of Insurance

**PREMIUM TAX AUDIT OF**

**Affinity Insurance Services Inc.**

**Fort Washington, PA**

**Alaska License #9435**

**TA 21-02**

**As of December 31, 2020**

**Issued by**

**DIVISION OF INSURANCE**

**DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC**

**DEVELOPMENT**

**STATE OF ALASKA**



**FINAL REPORT:**  
August 18, 2021

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August 18, 2021

Lori K Wing-Heier  
Director, Division of Insurance  
Department of Commerce, Community and Economic Development  
550 West 7<sup>th</sup> Avenue, Suite 1560  
Anchorage, AK 99501-3567

Pursuant to Alaska Statute (AS) 21.06.120, the Alaska Division of Insurance performed a limited and targeted premium tax audit of Affinity Insurance Services Inc. The audit was conducted by Rebecca Nesheim, tax auditor for the Alaska Division of Insurance.

**Affinity Insurance Services Inc.**

**SCOPE OF AUDIT**

This premium tax audit was called to review compliance with the surplus lines statutes AS 21.34, and regulations 3 AAC 25, the premium tax regulations 3 AAC 21.550 – 570 and licensing statutes AS 21.27.350 and 21.27.810. This is the second premium tax audit of Affinity Insurance Services Inc. conducted by the Alaska Division of Insurance (the division).

**Subject Matters Audited**

Affinity Insurance Services Inc. (the broker) is an Alaska licensed surplus lines broker based in Fort Washington, PA. The division elected to audit their quarterly filings, premium taxes and filing fees paid for accuracy and timeliness as well as required diligent search efforts, disclosures, notifications, and prompt delivery of material facts in evidence of insurance to the insured.

**Time Frame**

The audit covered the broker's surplus lines business for policy effective dates occurring between January 1, 2019 and December 31, 2020.

## **METHODOLOGY**

The division sent the call letter and initial data requests to the broker's office in Fort Washington, PA. A list of all Alaska business transactions with nonadmitted insurers was requested for the period to be audited. The broker complied on a timely basis with all data requests. The number of policies written during the audit period was 57, from which a sample of 50 files was selected for audit. During the audit, it was determined two of the transactions were actually endorsements so they were replaced with other policies to bring the total back to 50.

### **The following are the procedure steps for the audit:**

- 1) Verify that quarterly reports and accompanying forms were filed on time.
  - i) Audit steps taken:
    - (1) Reviewed the quarterly reports sent to the Alaska Division of Insurance and verified they were filed by the due date.
- 2) Verify the accuracy of the premium calculation.
  - i) Audit steps taken:
    - (1) Reviewed policy, binders, and invoices to determine how taxable premium was calculated.
    - (2) Verified the correct premium was reported on the reports as filed.
- 3) Verify the accuracy of quarterly reports filed.
  - i) Audit steps taken:
    - (1) Reviewed the policy, binder, and endorsement pages in each file.
    - (2) If the effective date did not match the quarterly filing, reviewed the correspondence to ensure the documentation in the file matched when the policy was booked. Most of these occurred with endorsements that often require additional information and sometimes company approval before it can be added to the policy. The invoice date determines in which quarter the endorsement is required to be filed.
    - (3) Verified the quarterly reports as filed with the division were accurately filled out to reflect the correct effective date, premiums, taxes and fees based upon the information in the files.
    - (4) Verified the policy was included in the quarterly filing based upon the effective date of the policy.
    - (5) Verified the insured name, insured address, insurance company, producer names and license numbers were accurate on the forms filed.
    - (6) Verified the descriptions of the subject and locations of risk were identified on the reports.
- 4) Verify if tax and filing fee payments were made on time and by ACH.
  - i) Audit steps taken:
    - (1) Confirmed when the payments were received by the Alaska Division of Insurance and the payment method.
- 5) Verify tax and filing fee payments were made accurately.
  - i) Audit steps taken:
    - (1) Confirmed if the tax and fee payments matched the quarterly reports as filed.
- 6) Confirm Alaska is the home state of the insured.

- i) Audit steps taken:
    - (1) Verified where the principal place of business or residence of the insured is located.
    - (2) Verified at least partial risk is located in Alaska or the highest % of premium in Alaska if headquarters not in Alaska with no risk in the headquarters state or in the case of individuals, the residence state.
- 7) Review effort made to place insured with an admitted insurer.
  - i) Audit steps taken:
    - (1) Verified the diligent search was documented prior to binding and received within 15 days from binding. If there were no declinations due to risk on the placement list, the list effective at the time of placement was reviewed to ensure the risk was on the list
- 8) Review prompt delivery of evidence of insurance AS 21.34.100(a) and 3 AAC 25.060.
  - i) Audit steps taken:
    - (1) Reviewed dates of binding and forwarding of evidence of insurance to insured.
- 9) Review required material facts are located on evidence of insurance AS 21.34.100(a).
  - i) Audit steps taken:
    - (1) Reviewed documents to confirm required material facts were located on the evidence of insurance when policy not available within 30 days of binding.
- 10) Review disclosures for use of non-admitted insurer.
  - i) Audit steps taken:
    - (1) Reviewed the evidence of insurance to ensure the broker's name and language required by statute AS 21.34.100(e) is present and legible and at least 10-point type.
- 11) Review notifications for use of non-admitted insurer.
  - i) Audit steps taken:
    - (1) Reviewed the correspondence and other documentation in the files to find a copy of the notification sent to the insured that meets the requirement in AS 21.34.110
- 12) Confirm coverage is placed with an eligible non-admitted insurer.
  - i) Audit steps taken:
    - (1) Reviewed the Alaska published white lists and NAIC Quarterly Listings of Alien Insurers to ensure the company was eligible at the time of placement.
- 13) Review notice regarding nonrenewal and premium increase
  - i) Audit steps taken:
    - (1) Verified there was an Alaska Policyholder Notice regarding nonrenewal and premium increase included with the policy in the format approved by the Director of the Alaska Division of Insurance.
- 14) Other issues not previously identified as a procedure step were included when not in compliance with Alaska laws.
  - i) Audit steps taken:
    - (1) Reviewed documents to ensure other surplus lines statutes and regulations requirements were met.

**Acceptable Error Rate:**

The Broker's acceptable error rate for the above referenced standards and tests must be less than 10%.

## **PREMIUM TAX AUDIT**

- |  |   |
|--|---|
| <b>1. Verify quarterly reports and accompanying forms were filed on time</b> | <b>AS 21.34.080 and .170, 3 AAC 25.090 and .100</b> |
|--|---|

*Comments:* The eight original quarterly reports with accompanying forms were filed on time.

*Results:* Passed (error rate 0%)

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| <b>2. Verify the accuracy of the premium calculation</b> | <b>AS 21.34.180</b> |
|--|---------------------|

*Comments:* The premium was calculated correctly for all policies in the audit files.

*Results:* Passed (error rate 0%)

- |  |   |
|--|---|
| <b>3. Verify the accuracy of all quarterly reports filed</b> | <b>AS 21.34.080 and .170, 3 AAC 25.090 and .100</b> |
|--|---|

*Comments:* Multiple errors were noted on the Report of Surplus Lines Transaction forms and Quarterly Reports filed with the division:

- Policy term end date did not match evidence of insurance - 2
- Producer license # incorrect - 3
- Producer name incorrect - 3
- Insured address incorrect - 2
- Filed on amended report after due date - 2

Total accuracy errors: 12 within 7 distinct files

*Results:* Failed (43 files passed & 7 failed, error rate 14%)

*Recommendations:* It is recommended the broker ensure the Alaska specific written procedures, which includes instructions on how to fill out the transaction report, are followed. A second individual reviewing documents before submission should reduce the number of errors received by the division.

*The broker's response:* Broker agrees with the recommendations.

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| <b>4. Verify if tax and filing fee payments were made on time and by ACH</b> | <b>AS 21.34.180, AS 21.34.190, 3 AAC 21.550 - .570</b> |
|--|--|

*Comments:* All payments were made on or before the required due date for the quarterly payments and made by ACH.

*Results:* Passed (error rate 0%)



**5. Verify tax and filing fees payments were made accurately**

**AS 21.34.180, 3 AAC 21.550 - .570**

*Comments:* All tax and fee payments made by the broker were accurate based upon the quarterly reports as filed.

*Results:* Passed (error rate 0%)

**6. Verify the home state for insured is Alaska**

**AS 21.34.180**

*Comments:* The broker does not write multi-state policies for Alaska. The home state of the insured was evaluated for all policies and they were correctly identified as Alaska.

*Results:* Passed (error rate 0%)

**7. Review diligent search effort made to place insured with an admitted insurer**

**AS 21.34.020, 3 AAC 25.010 and .035**

*Comments:* The broker has elected to use the Affidavit of Due Diligence for documenting the diligent search. For those where the broker is also the producer, they create the documents in house. Twenty-six in house Affidavits were created after 15 days from binding. One other Affidavit showed the diligent search was completed after binding.

*Results:* Failed (23 files passed & 27 failed, error rate 54%)

*Recommendations:* It is recommended the broker ensure the Alaska specific written procedures for Affidavits of Due Diligence to be created no later than 15 days from binding are followed. In addition, the broker must ensure the diligent search occurs prior to binding.

*The broker's response:* Broker agrees with the recommendations.

**8. Review prompt delivery of evidence of insurance**

**AS 21.34.100(a) and 3 AAC 25.060**

*Comments:* Thirty-five files have documentation showing the evidence of insurance was provided to the insured after 30 days from binding.

*Results:* Failed (15 files passed & 35 failed, error rate 70%)

*Recommendations:* It is recommended the broker ensure the Alaska specific written procedures are followed to provide evidence of insurance or policy to the insured no later than 30 days from binding.

*The broker's response:* Broker agrees with the recommendations.

**9. Review required material facts located on evidence of insurance**

**AS 21.34.100(a)**

*Comments:* Twenty-four files included a lack of required material facts on binders, policies and certificates. If a binder was missing facts, the policy sent was evaluated. Here are the different issues the broker is not compliant with regarding this statute:

- Certificate of Liability Insurance missing broker license # - 5
- Certificate of Liability Insurance missing premium amount - 3
- Certificate of Liability Insurance missing insurance company name - 3
- Certificate of Liability Insurance missing tax - 3
- Policy missing broker license # - 3
- Policy missing broker name - 1
- Policy missing tax - 15
- Binder missing broker name - 1
- Binder missing broker license # - 4
- Binder missing location of risk - 2
- Binder missing insured address - 2

Total errors: 42 within 24 distinct files

*Results:* Failed (26 files passed & 24 failed, error rate 48%)

*Recommendations:* It is recommended the broker revise the Alaska specific written procedures to include details on what material facts regarding the coverage, insured, insurer, and broker must be on evidence of insurance. Review statute for details.

*The broker's response:* Broker agrees with the recommendations.

**10. Review disclosures on evidence of insurance for use of non-admitted insurer**

**AS 21.34.100(e)**

*Comments:* Twenty files included problems with the required disclosure statement on the evidence of insurance. Where the insured's copy was unavailable, auditor relied upon the broker copy. Here are the different problems found in the files:

- No disclosure on binder - 5
- No disclosure on policy - 2
- No disclosure on Certificate of Liability Insurance - 22
- Binder missing word in disclosure - 5
- Policy missing word in disclosure - 8
- Disclosure less than 10 pt type on policy - 4

Total disclosure errors: 46 within 20 distinct files

*Results:* Failed (30 files passed & 20 failed, error rate 40%)

*Recommendations:* It is recommended the broker ensure the Alaska specific written procedures are followed that all evidence of insurance have the required disclosure statement and is at least 10 pt type.

*The broker's response:* Broker agrees with the recommendations.

**11. Review notification for use of non-admitted insurer**

**AS 21.34.110**

*Comments:* The broker generally provides the notification to the insured. Fourteen files had issues with the notification. The required three points of the notification: the company does not have a certificate of authority, they are not regulated by the Alaska Division of Insurance and in the event of insolvency losses will not be covered by the Alaska Insurance Guaranty Association Act.

- Not located in file - 9
- Missing a part of the notification - 3
- Sent after binding and invoice - 2

*Results:* Failed (36 files passed & 14 failed, error rate 28%)

*Recommendations:* It is recommended the broker ensure the Alaska specific written procedures are followed to include Alaska notification document with the quote to the insured describing the surplus lines insurance company. The broker has a separate notice called the “Insured Notice of Surplus Lines Placement.”

*The broker's response:* Broker agrees with the recommendations.

**12. Confirm coverage is placed with an eligible non-admitted insurer**

**AS 21.34.050**

*Comments:* All policies in the audit were placed with eligible surplus lines companies.

*Results:* Passed (error rate 0%)

**13. Review notice regarding nonrenewal and premium increase**

**3 AAC 25.050**

*Comments:* Eleven policies did not include the Alaska Policyholder Notice of premium increase and nonrenewal.

*Results:* Failed (39 files passed & 11 failed, error rate 22%)

*Recommendations:* It is recommended the broker ensure the Alaska specific written procedures are followed to include the Alaska Policyholder Notice with the policies.

*The broker's response:* Broker agrees with the recommendations.

#### 14. Other Compliance Issue

*Comments:* AS 21.27.350 and 21.27.810: The broker does not maintain complete documentation to be in sufficient detail that relevant events, the dates of those events, and all persons participating in those events can be identified. Emails of former employees were not maintained so when those emails had not been attached to insured files, the broker was unable to obtain the emails for when specific transactions occurred.

*Recommendations:* It is recommended the broker ensure they are following their written procedures regarding what communication is required to be maintained.

*The broker's response:* Broker agrees with the recommendations.

## **SUMMARY AND SUBSEQUENT EVENTS**

### **Summary**

This was a premium tax audit of Affinity Insurance Services Inc. The auditor tested 13 standards focusing on the broker's filing of quarterly reports and the subsequent payment of premium taxes and filing fees as well as diligent search efforts, disclosure and notification requirements for using a non-admitted insurer, and prompt delivery of material facts to insured.

The audit was conducted in the auditor's office as she received electronic versions of the broker's files under audit. The broker responded quickly to all requests for additional information. The auditor appreciated this behavior.

Several significant issues did arise during the audit that affects the service to the insured and compliance with Alaska statutes and regulations.

- 1) Several quarterly reports were not accurate when filed.
- 2) Many of the diligent search documentation of the admitted market were created after binding.
- 3) Prompt delivery of the evidence of insurance was problematic in most files.
- 4) Material facts required on the evidence of insurance were missing on many documents.
- 5) Many of the disclosure stamps were missing from the evidence of insurance.
- 6) The required notification to the insured regarding the use of a nonadmitted insurer was not found in some files
- 7) The Alaska Policyholder Notice was missing from several files.

The auditor would like to review any new or revised procedures to help the broker ensure all problems identified in the audit were captured accurately.

### **Re-Audit**

In closing, the auditor's recommended actions and review of the procedures should help the broker correct the problems encountered. It is recommended that Affinity Insurance Services Inc. be re-audited within the next three years to ascertain compliance.

Submitted by:  
Rebecca Nesheim  
Tax Auditor

Affidavit

Affinity Insurance Services Inc.  
As of December 31, 2020  
TA 21-02

Juneau, Alaska        )  
August 18, 2021     )  
                              )  
State of Alaska       ) ss.  
First Judicial District )

I, being duly sworn, do verify that the report of premium tax audit as of December 31, 2020 of Affinity Insurance Services Inc. is true to the best of my knowledge and belief.

Rebecca Nesheim  
Rebecca Nesheim  
Tax Auditor

SUBSCRIBED and SWORN to before me this 18 day of August, 2021

NOTARY PUBLIC  
ANNA M. LATHAM  
STATE OF ALASKA  
My Commission Ending with Office

Anna M. Latham  
Notary Public in and for Alaska  
My Commission Expires w/ office.