

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

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

Order # TA 12-01 )  
In the Matter of Audit of )  
The Insurance Center )  
\_\_\_\_\_ )

FINDINGS OF FACT

1. An audit report of The Insurance Center, licensed in the State of Alaska, has been issued by the State of Alaska, Division of Insurance to The Insurance Center.
2. The audit report of The Insurance Center (TA 12-01) has been transmitted to Joshua W. Korver, Compliance Officer, The Insurance Center (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

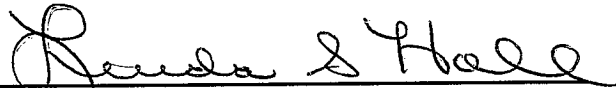
IT IS ORDERED

1. Pursuant to AS 21.06.150(b)(1), the audit report of The Insurance Center (TA 12-01) 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 MAY 4, 2012.

Dated this 4<sup>th</sup> day of MAY, 2012 at Anchorage, Alaska.



Linda S. Hall, Director  
State of Alaska  
Division of Insurance

**PREMIUM TAX AUDIT OF**

**The Insurance Center  
Anchorage, AK**

**TA 12-01**

**As of December 31, 2010**

**Issued by  
DIVISION OF INSURANCE  
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC  
DEVELOPMENT  
STATE OF ALASKA**



**FINAL REPORT:  
May 4, 2012**

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DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT  
Division of Insurance

*Sean Parnell, Governor*  
*Susan K. Bell, Commissioner*  
*Linda S. Hall, Director*

May 4, 2012

Linda S. Hall, CPCU  
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) 21.06.130, the Alaska Division of Insurance performed a limited and targeted premium tax audit of The Insurance Center (the broker) on January 9, 2012 through January 10, 2012, in the broker's Anchorage, AK office. The audit was conducted by Rebecca Nesheim, tax auditor for the Alaska Division of Insurance.

**The Insurance Center**

**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 and the premium tax regulations 3 AAC 21.550 – 570. This is the second premium tax audit of The Insurance Center conducted by the Alaska Division of Insurance. The first premium tax audit was completed August 11, 2008.

**Subject Matters Audited**

The Insurance Center is an Alaska licensed surplus lines broker based in Anchorage, AK. The division included in the current audit a review of the statutory compliance with monthly filings, premium tax and filing fees payments, of accuracy and timeliness as well as required due diligence and disclosures and notifications to the insured.

**Time Frame**

The audit covered this broker's surplus lines business for the year January 1, 2009 through December 31, 2010.

P.O. Box 110805, Juneau, Alaska 99811-0805  
Telephone: (907) 465-2515 Fax: (907) 465-3422 Text Telephone: (907) 465-5437  
Email: [insurance@alaska.gov](mailto:insurance@alaska.gov) Website: <http://www.commerce.state.ak.us/insurance/>

## METHODOLOGY

The tax auditor sent the call letter and initial data requests to The Insurance Center's office in Anchorage, AK. A list of all Alaska business transactions with nonadmitted insurers was requested for the period to be audited. The Insurance Center complied on a timely basis with all data requests. The number of policies written during the audit period was 170, from which a sample of 50 files was selected for audit. While on-site, auditor found two of the policies on the original sample list were actually endorsements. One of the endorsement's policy was already part of the original 50 files so another policy from the complete list had to be selected to replace the endorsement. The other endorsement's policy was not part of the sample so that same policy was used for the audit.

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

- 1) Verify that monthly premium reports and accompanying forms were filed on time.
  - i) Audit steps taken:
    - (1) Reviewed the monthly files sent to the Alaska Division of Insurance and verified the reports were filed by the due date.
- 2) Verify the accuracy of the premium calculation
  - i) Audit steps taken:
    - (1) Reviewed policy, declaration page, 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 all monthly reports filed.
  - i) Audit steps taken:
    - (1) Reviewed the policy, declaration, and endorsement pages in each file.
    - (2) If the effective date did not match the monthly 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 effective date may be a month or more prior to the actual book date or invoice date. In this case, the invoice date determined in which month the endorsement is required to be filed.
    - (3) Verified the monthly 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 a statement of exempt premiums was filed when appropriate.
    - (5) Verified the policy was included in the monthly filing based upon the effective date of the policy.
- 4) If the placement is a multi-state placement, check the calculation and reasonableness of the methodology used to allocate.
  - i) Audit steps taken:
    - (1) Verified the allocation of premium for each state is reasonable and the calculation is accurate.
    - (2) Verified the multi-state allocation form was filed when appropriate
- 5) Verify quarterly and annual premium tax reports were filed on time.
  - i) Audit steps taken:

- (1) Confirmed when the quarterly and annual premium tax reports were sent to the Alaska Division of Insurance.
- 6) Verify the accuracy of the quarterly and annual premium tax reports
  - i) Audit steps taken:
    - (1) Verified the quarterly and annual premium tax reports as filed with the division were accurately filled out to reflect the correct premiums, taxes and fees.
- 7) 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
- 8) Verify tax and filing fee payments were made accurately
  - i) Audit steps taken:
    - (1) Confirmed if the tax and fee payments matched the tax reports as filed.
- 9) 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 the declinations completed. If 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
- 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 stamp required by statute AS 21.34.100(e) is present and legible.
- 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 white lists 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 in each file there was an Alaska Policyholder Notice regarding nonrenewal and premium increase included with the policy or other evidence of insurance.

**Acceptable Error Rate:**

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

## PREMIUM TAX AUDIT

1. Verify that monthly premium reports and accompanying forms were filed on time  
**AS 21.34.080 and .170, 3 AAC 25.090 and .100**

*Comments:* The August 2010 monthly report was filed after the due date for which a penalty was assessed and paid prior to the audit. The remaining 23 monthly reports were filed on time.

*Results:* Passed (23 reports passed & 1 failed, error rate 4%)

*Recommendations:* It is recommended that the broker create written procedures to be followed when preparing and filing a monthly report or the new quarterly report effective 7/21/2011 to ensure the timeliness of future filings. The procedures need to include due dates for new/renewal policies as well as endorsements.

*The Insurance Center Response:* We do not dispute the lateness of the one report. Written procedures are still to be generated since the requirements for generating these reports are still not a settled matter in the State. Once the State has finalized the reporting procedures, we will finalize our procedures and forward the procedures to Auditor Nesheim for her review and comments.

2. Verify the accuracy of the premium calculation  
**AS 21.34.180**

*Comments:* The premium was calculated incorrectly for one policy in the audit files. A company policy fee of \$150 was not included in the calculation of premium. An amended monthly report and annual tax report will be required to adjust for the missing fees. Additional tax and fees will be due.

This error affects three additional audit tests:

1. Accuracy of the Monthly Reports
2. Accuracy of Tax Reports
3. Accuracy of Tax and Fee Payments

*Results:* Passed (49 files passed & 1 failed, error rate 2%)

*Recommendations:* It is recommended the broker create written procedures to ensure all company fees are included in the calculation of premium tax and filing fees. The broker should read bulletin 04-14 to reinforce their understanding of what fees are to be included in premium and what are not. A second individual reviewing documents before submission could reduce the number of errors received by the Division.

*The Insurance Center Response:* We do not dispute the accidental exclusion of the policy fee from the calculation of the premium in the policy at issue. We have amended the monthly, quarterly and annual reports as required to remit the \$5.55 owed to the State of Alaska. Written procedures are still to be generated since the requirements for generating these reports are still not a settled matter in the State. Once the State has finalized the reporting procedures, we will



finalize our procedures and forward the procedures to Auditor Nesheim for her review and comments. We have added a surplus lines manager in our office. All surplus lines files will be reviewed by her prior to binding.

*Alaska Division of Insurance Response:* The amended reports and payment were received bringing the broker back into compliance with this procedure test.

**3. Verify the accuracy of all monthly reports filed**

**AS 21.34.080 and .170, 3 AAC 25.090 and .100**

*Comments:* One transaction was filed late on an amended December 2010 monthly report for which a penalty was assessed and paid prior to the audit. There was no effect to the tax report and tax and fee payments as the transaction was filed prior to their due dates.

*Results:* Passed (49 files passed & 1 failed, error rate 2%)

*Recommendations:* It is recommended that the broker create written procedures for when initial or renewal policies as well as endorsements are to be reported to the Alaska Division of Insurance. Statute and regulation dates should be included in these procedures. A second individual reviewing documents before submission could reduce the number of errors received by the Division. The broker should consider utilizing email capabilities for transferring paperwork to the Division as that may reduce the filing time.

*The Insurance Center Response:* We do not dispute the lateness of the one transaction. Written procedures are still to be generated since the requirements for generating these reports are still not a settled matter in the State. Once the State has finalized the reporting procedures, we will finalize our procedures and forward the procedures to Auditor Nesheim for her review and comments. We have added a surplus lines manager in our office. All surplus lines files will be reviewed by her prior to binding. We have not gone to email transfer of reports since there are issues still at hand with email regarding certification of receipt. We will take the recommendation under advisement and see if internal procedures and system can assure a high level confidence in the reports being generated, their level of review, and assurance of delivery.

**4. Verify the multi-state placements are filed correctly**

**AS 21.34.180**

*Comments:* The broker does not write multi-state policies.

*Results:* N/A

**5. Verify quarterly and annual premium tax reports were filed on time**

**AS 21.34.180, 3 AAC 21.550 and .560**

*Comments:* 2010 was the first year the broker was required to file quarterly tax reports. All quarterly tax reports and annual premium tax reports were filed on time.

*Results:* Passed (error rate 0%)

6. Verify the accuracy of the quarterly and annual premium tax reports

AS 21.34.180, 3 AAC 21.550 and .560

*Comments:* 2010 was the first year the broker was required to file quarterly tax reports. All quarterly tax reports and annual premium tax reports were accurate based upon the monthly reports as filed. The error found during the audit in the premium calculation affects the accuracy of the annual tax report. This flow-through finding is addressed in its respective audit test.

*Results:* Passed (error rate 0%)

7. Verify if tax and filing fee payments were made on time and by ACH

AS 21.34.180, 3 AAC 21.550 - .570

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

*Results:* Passed (error rate 0%)

8. 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 tax reports as filed. The error found during the audit in the premium calculation affects the accuracy of the annual tax report. This flow-through finding is addressed in its respective audit test.

Due to the company fees not included in premium, the broker owes additional tax and fees of \$4.05 and \$1.50 respectively.

*Results:* Passed (error rate 0%)

*Alaska Division of Insurance response:* Payment was received by the broker.

9. Review effort made to place insured with an admitted insurer

AS 21.34.020, 3 AAC 25.035

*Comments:* The broker has elected to use the Affidavit of Due Diligence for documenting the diligent search from the producers. Thirteen files show the affidavit was received after binding.

One affidavit was received after binding but all the declinations were from The Insurance Center so the broker knew it could not be found in the admitted market. The Division will allow this practice for this audit even though the affidavit was received after the bound date.

*Results:* Failed (37 files passed & 13 failed, error rate 26%)

*Recommendations:* It is recommended that the broker create written procedures to ensure all Affidavits of Due Diligence are received prior to binding including those with risks located on the placement list as required by Alaska law. If another form of documentation is maintained, it must be received prior to binding and have an accurate description of how the risk is qualified on the placement list. A step on a checklist is one way to ensure this is not missed.

*The Insurance Center Response:* We do not dispute that the affidavit was received after binding for certain files. It was unknown to our office that it was required to receive the affidavit of due diligence prior to binding. With Auditor Nesheim's help we have corrected for this issue by creating checklist procedures to ensure that all affidavits are received in our office prior to binding. We have also included in those procedures a requirement to make sure that the affidavit of due diligence is complete.

*Alaska Division of Insurance response:* The prior audit final report clearly states the diligent search was not documented prior to binding. The broker should have been aware of this requirement and made corrective actions at that time which would have resulted in a pass on this procedures step.

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

**AS 21.34.100(e)**

*Comments:* Six files demonstrated a problem with the required disclosure stamp on evidence of insurance. The broker separates the disclosure stamp into two separate sentences that are often placed in different locations on the documents. Here are the different problems found in the files:

- Stamp illegible on dec – 2
- Stamp illegible on binder – 1
- Half of required stamp not on binder – 1
- No stamp on endorsement – 3

Total disclosure errors: 7 within 6 distinct files

*Results:* Failed (44 files passed & 6 failed, error rate 12%)

*Recommendations:* It is recommended that the broker create written procedures to ensure all evidence of insurance have the required disclosure stamp wording and is legible. The procedures should include the stamp requirement on all premium bearing and non-premium bearing endorsements as they are also evidence of insurance. Combining the two sentences into one combined stamp will alleviate the possibility of missing part of the requirement. A step on a checklist is one way to ensure this is not missed.

*The Insurance Center Response:* We have recognized the errors listed for the surplus lines stamp. We were unaware that the stamp was required for endorsements. It was not highlighted during our last audit, and so we continued to be unaware of this requirement. We have edited the stamp and put it into our system as a system stamp so that legibility should no longer be an issue, and it is no longer split between sentences. We have instituted checklist procedures that have

met with Auditor Nesheim's approval for making sure that the stamp is used properly and is legible.

*Alaska Division of Insurance response:* The prior audit final report clearly states the stamp is required on all evidence of insurance. As endorsements are considered evidence of insurance by industry standards, the broker should have been aware of this requirement and made corrective actions at that time which would have resulted in a pass on this procedures step.

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

**AS 21.34.110**

*Comments:* The broker continues to not notify the insured that the insurance is being placed with a company that is not regulated by the Alaska Division of Insurance; therefore, there is no required documentation maintained in any file.

*Results:* Failed (error rate 100%)

*Recommendations:* It is recommended that the broker create written procedures to provide the Alaska notification to the insured describing the surplus lines insurance company as required by statute. The information should include the 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.

*The Insurance Center Response:* We do not deny the lack of notification being provided. There are two contributing factors to our non-compliance. In a first instance, the original affidavit of due diligence (recently edited) stated that by signing the affidavit, the producing broker was verifying that this notice had been provided to the insured. Since we used affidavits exclusively in our office, it was assumed that this requirement was met by virtue of the producing broker's signature. Secondly, at the time, our office had the notice required under AS 21.34.110 confused with the notice required under 3 AAC 25.050. In that confusion, our office was using the other surplus lines notice form to try to fulfill this requirement.

We have since generated a notice that has met with Auditor Nesheim's approval. We have also created a checklist for making sure that this notice goes out with every quote and includes a request to the producing broker to deliver it to the insured. We cannot guarantee delivery to the insured since we have no direct contact, but we have an indication from Auditor Nesheim that this type of notice is sufficient to comply with the statute.

*Alaska Division of Insurance Response:* Although the previous version of the affidavit of due diligence did have the verification the producing broker provided the notification to the insured, AS 21.34.110(a)(2) states if the producing broker provides the notification, they must also provide the surplus lines broker a copy and the surplus lines broker shall maintain the copy with the records of the contract.

**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:* Ten files did not have evidence of the required Alaska Policyholder Notice of nonrenewal and premium increase being sent to the insured. The broker generally sends this notice to the insured at the time of the quote and then they do not send it again nor do they confirm if it is attached to the policy, binder or cover note from the insurer. Since this is a company form, they need to require the companies to include this form with the policy, binder and cover note or include themselves when they are producing the documents.

*Results:* Failed (40 files passed & 10 failed, error rate 20%)

*Recommendations:* It is recommended that the broker create written procedures to include a step in the processing of policies, binders, and cover notes to ensure the notice is included from the insurance company. If the notice is missing, the broker should contact the insurance company to include the notice. A step on a checklist is one way to ensure this document is reviewed.

*The Insurance Center Response:* As stated above with reference to test #11, following the last audit, there was some considerable confusion between this requirement of notice and the disclosure under AS 21.34.110. This is why this notice was sent with quotes as well as binders and policies. We have since corrected this and will include this notice with binders and policies and the notice for AS 21.34.110 with quotes. We have also contacted our carriers with regard to the notice and have conveyed to them their responsibility for including the form in their policies and binding documents sent to us. We are still working with them to get this procedurally implemented, but we are closing the gap so that this is no longer missed.

## **SUMMARY AND SUBSEQUENT EVENTS**

### **Summary**

This was a follow-up to the premium tax audit of The Insurance Center completed August 11, 2008. The auditor tested 13 standards focusing on the broker's filing of monthly and annual tax reports and the subsequent payment of premium taxes and filing fees as well as due diligence and notification requirements for using a non-admitted insurer.

The compliance officer and staff were cooperative during the audit. The tax auditor appreciated this attitude and enjoyed working with The Insurance Center's management and staff.

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

- 1) The diligent search effort in the admitted market continues to not be documented prior to binding.
- 2) Several of the disclosure stamps were illegible on evidence of insurance.
- 3) The required notification regarding the use of a nonadmitted insurer continues to not be sent to the insured and thus no documentation was maintained in any files.
- 4) The Alaska Policyholder Notice continues to be missing from several files.

**Re-Audit**

In closing, the auditor's recommended actions should help the broker correct the problems encountered. It is recommended that The Insurance Center be re-audited within the next three years to ascertain compliance.

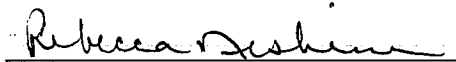
Submitted by:  
Rebecca Nesheim  
Tax Auditor

Affidavit

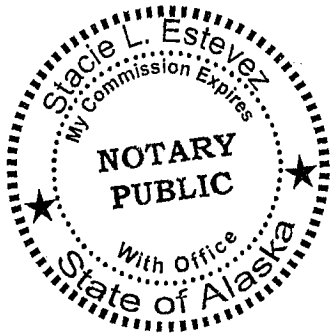
The Insurance Center  
As of December 31, 2010  
TA 12-01

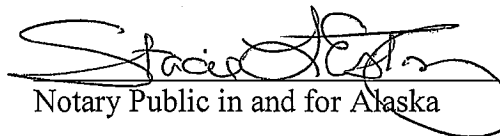
Juneau, Alaska )  
May 4, 2012 )  
State of Alaska ) ss.  
First Judicial District )

I, being duly sworn, do verify that the report of premium tax audit as of December 31, 2010 of The Insurance Center is true to the best of my knowledge and belief.

  
Rebecca Nesheim  
Tax Auditor

SUBSCRIBED and SWORN to before me this 4<sup>th</sup> day of May, 2012



  
Notary Public in and for Alaska  
My Commission Expires with office