

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 14-01a )  
In the Matter of Audit of )  
Alaska USA Insurance Brokers LLC )  
\_\_\_\_\_ )

FINDINGS OF FACT

1. An audit report of Alaska USA Insurance Brokers LLC, licensed in the State of Alaska, has been issued by the State of Alaska, Division of Insurance to Alaska USA Insurance Brokers LLC.

2. The audit report of Alaska USA Insurance Brokers LLC (TA 14-01) has been transmitted to David Kester, Compliance Officer, Alaska USA Insurance Brokers LLC (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

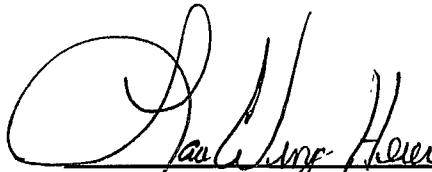
IT IS ORDERED

1. Pursuant to AS 21.06.150(b)(1), the audit report of Alaska USA Insurance Brokers LLC (TA 14-01) 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 June 11<sup>th</sup>, 2015.

Dated this 11<sup>th</sup> day of June, 2015 at Anchorage, Alaska.

A handwritten signature in black ink, appearing to read "Lori Wing-Heier", written over a horizontal line.

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

**PREMIUM TAX AUDIT OF**  
**Alaska USA Insurance Brokers LLC**  
**Alaska License #41210**

**TA 14-01**

**As of December 31, 2013**

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



**FINAL REPORT:**  
**June 11, 2015**

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THE STATE  
of **ALASKA**

GOVERNOR BILL WALKER

Department of Commerce, Community,  
and Economic Development

DIVISION OF INSURANCE

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June 11, 2015

Lori K Wing-Heier, CIC, CRM  
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 Alaska USA Insurance Brokers LLC (the broker). The audit was conducted by Rebecca Nesheim, tax auditor for the Alaska Division of Insurance.

**Alaska USA Insurance Brokers LLC**

**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 Alaska USA Insurance Brokers LLC conducted by the Alaska Division of Insurance. The first audit was completed on January 18, 2011.

**Subject Matters Audited**

Alaska USA Insurance Brokers LLC is an Alaska licensed surplus lines broker based in Anchorage, AK. 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 and notifications to the insured.

**Time Frame**

The audit covered this broker's surplus lines business for the years January 1, 2012 through December 31, 2013.

## METHODOLOGY

The tax auditor sent the call letter and initial data requests to the broker's office in Anchorage, AK. 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 72, from which a sample of 50 files was selected for audit.

### *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 a statement of exempt premiums was filed when appropriate.
    - (5) Verified the policy was included in the quarterly filing based upon the effective date of the policy.
    - (6) Verified the locations of risk were identified on the reports
- 4) If the placement is a multi-state placement, 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
- 5) 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
- 6) 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.
- 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 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
- 8) 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.
- 9) 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
- 10) 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.
- 11) 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**

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

*Comments:* The eight quarterly reports were filed on time.

*Results:* Passed (error rate 0%)

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 \$75 was not included in premium and therefore no taxes and fees were charged.

This error affects two additional audit tests:

- 1. Accuracy of the Quarterly Reports

## 2. Accuracy of Tax and Fee Payments

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

*Recommendations:* It is recommended the broker revise 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.

*The broker's response:* AUIB's Surplus Lines procedures currently provide for the proper use and calculation of taxes and fees to include company fees in that calculation. It is sometimes difficult to determine who the fees are intended for. Often our staff has to relay on the information received by the Managing General Agent when there is a question on who retains the fee. The one item you indicate as a fail was followed up on by the staff and it was understood that they fee went to the MGU not the carrier. However, upon again inquiring, it was discovered the fee was indeed going to the insurance carrier. Upon discovery, AUIB corrected the transaction, filed a corrected transaction report and paid the additional taxes and fees to the division of \$2.78.

## 3. Verify the accuracy of all quarterly reports filed

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

*Comments:* Reporting errors occurred on 16 Report of Surplus Lines Transaction forms resulting in the quarterly reports being inaccurate. The Division will not require the broker to go back and fix each of the errors but will expect future reports to be accurate. Here are the errors identified:

- a. Missing policy #'s or incorrect policy #'s (14)
- b. DBA name was used instead of the insured's name (2)
- c. Missing description of the subject and location of the risk (2)

Total accuracy errors: 19 within 16 distinct files

There was one premium bearing endorsement that was not filed. It has subsequently been filed on an amended quarterly report. This error is included in the distinct 16 files.

After July 21, 2011, there was some confusion about whether the location of risk when the policy had multi-state risk was still required to be reported since if the insured's home state was Alaska, then 100% of the policy was to be reported in Alaska. Locations of risk are still required to be reported per statute AS 21.34.080(a)(3) and the other states were not identified on the report as filed to the Division for one file. This will not be a finding in this audit but all future reports need to have locations of risk accurately identified.

*Results:* Failed (34 files passed & 16 failed, error rate 32%)

*Recommendations:* It is recommended that the broker revise their written procedures to include a list of all information that is required to be on the Report of Surplus Lines Transaction form. A second individual reviewing documents before submission could reduce the number of errors received by the Division.



*The broker's response:* AUIB will comply by revising our procedures to include accurate policy #'s, including the full legal name, and description of subject and location. Compliance officer will be sure this information is included prior to submitting the Quarterly Reports.

a. Missing policy #'s or incorrect policy #'s

1) Often time policy numbers are not available at the time the Report of Transaction is required to be completed. This would require additional follow up once the carrier has provided this information.

b. DBA name was used instead of the insured's name

1) This was not a finding previously. Coverage is specific to the DBA. Going forward the procedures will be amended to instruct the completion of the named insured to show the full name including the DBA

c. Missing description of the subject and location of risk

1) This is included in the instructions for completing the form. There will be better auditing of this item.

**4. Verify the home state for insured is Alaska on multi-state placements**

**AS 21.34.180**

*Comments:* The broker writes some multi-state policies. Four policies in the audit were multi-state risk and were all reported as 100% to Alaska as Alaska is the home state of the insured based upon the principal place of business and at least part of the risk is in Alaska. As noted in #3, one of the policies did not include the other states involved on the form reported to the Division.

*Results:* Passed (error rate 0%)

**5. 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 eight payments were made on or before the required due date for the payments and made by ACH.

*Results:* Passed (error rate 0%)

**6. 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. The errors found during the audit in the premium calculation and the accuracy of the quarterly report affects the accuracy of the tax and fee payments. These flow-through findings are addressed in their respective audit tests.

*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. Ten files have documentation showing the Affidavit was created after binding. Several of the Affidavits were backdated to the effective date of the policy when signed.

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

*Recommendations:* It is recommended that the broker revise their written procedures to ensure all Affidavits of Due Diligence are created prior to binding including those with risks located on the placement list as required by Alaska law. Regulations changed effective 9/4/2014 that the documentation can be provided to the surplus lines broker up to 15 days after binding; however, the actual declinations and determination of the placement list risks must be done prior to binding. As the broker is the producer in all surplus lines transactions, they need to create the documentation prior to binding. Another change in regulation is correctly identifying the kind of insurance to determine whether insurance coverage is available in the admitted market to cover the kind of insurance.

*The broker's response:* AUIB's current agency Surplus Lines procedures speak to completion of this form prior to binding. Some of the items reviewed were corrections found upon checking and corrections were made to the original filing, therefore the date was not amended. IR allows for "sticky notes" which is what is used to identify that a report was corrected. We trust this meets the requirements. If no report was submitted with the Report of Transaction it is understood that the form should not be backdated, this will be clarified with the staff.

Some of the errors could be attributed to corrections completed after the original Due Diligence was completed and the date was not corrected. The Division needs to know that there was no purposeful backdating of affidavits.

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

**AS 21.34.100(e) & (f)**

*Comments:* Thirteen files demonstrated a problem with the required disclosure stamp on the evidence of insurance. Since the insured's copy is unavailable, auditor relied upon the broker copy. Here are all the different problems found in the files:

- No stamp on policy - 2
- No stamp on binder - 7
- No stamp on endorsement - 2 (1 premium bearing; 1 non premium bearing)
- Broker name not on policy - 1
- Broker name not on binder - 1
- Illegible stamp on binder - 1
- Multiple misspelled words on certificate - 1
- No stamp on Evidence of Property Insurance certificates - 6

Total disclosure errors: 21 within 13 distinct files

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

*Recommendations:* It is recommended that the broker ensure written procedures are followed that all evidence of insurance have the required disclosure stamp wording and spelled correctly and is legible. It is further recommended to revise the written procedures to include the stamp requirement on all premium bearing and non-premium bearing endorsements as they are also evidence of insurance. As the broker is also the producer in transactions, all certificates provided to persons other than the insured must have the disclosure stamp and broker name in 10 font type as well.

*The broker's response:* AUIB's current Surplus Lines procedures require submission for review and approval. This process will be audited monthly to ensure all evidences of insurance are captured and appropriately processed. We have now implemented a stamp in AMS that can be used on Certificates.

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

**AS 21.34.110**

*Comments:* The broker generally includes the notification that the insurance is being placed with a company that is not regulated by the Alaska Division of Insurance in their proposal. However, there were six files with problems regarding the notification to the insured:

- The notification was not in proposal but in the document management system with no indication sent to insured – 3
- Notification not located in insureds file – 1
- Notification created and sent to insured months after binding – 2
  - Statute does not require it be done prior to binding but it does require it before the insured is subject to premium or the contract is binding upon the insured.

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

*Recommendations:* It is recommended that the broker ensure their written procedures are followed to include this notification is in the proposal. If not included in the proposal, there needs to be better documentation in the insured's file as to when the notification was sent to the insured.

*The broker's response:* Better monitoring of our current processes will be implemented, monthly auditing. Further to that, AUIB's Surplus Lines procedure will be amended to provide proper documentation when this notice is sent after binding.

**10. 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%)

## 11. Review prompt delivery of policy or evidence of insurance

AS 21.34.100(a) and 3 AAC 25.060

*Comments:* This procedure was added during the audit due to non-compliance with promptly delivering the policy or, if not available, the evidence of insurance to the insured (must be within 30 days of binding or effective date, whichever comes first). There were 19 files showing non-compliance with prompt delivery.

*Results:* Failed (31 files passed & 19 failed, error rate 38%)

*Recommendations:* It is recommended the broker revise their written procedures to include the prompt delivery of the policy or, if the policy is not available, a cover note, binder, or other evidence of insurance. In addition, the evidence of insurance must include material facts regarding the coverage, insured, insurer, and broker. Review statute for details on the material facts.

*The broker's response:* AUIB will amend our procedures to provide a time frame for prompt delivery of the policy with evidence of such delivery regardless of method. If policy is not available evidence of insurance will be sent.

030.040. Commercial Binders

It is the policy of Alaska USA Insurance Brokers that binders are issued within three (3) days of effective date for all policies where we are authorized to issue binders. If we are not authorized to issue binders by a particular carrier, binders should be obtained from the carrier and forwarded to the insured in a timely manner.

### Advisory:

#### **File Documentation**

1. In one file, there was another insured's information. It was deleted during the audit
2. In three files, transactions were not documented adequately to determine when events took place such as when bound, when or if stamped binder and policy were sent to insured. AS 21.27.350
3. In two files, the policy and binder, if there was one, were not maintained in the insured's file. AS 21.27.350

#### **Alaska Policyholder Notice**

Seven files did not have the required Alaska Policyholder Notice of nonrenewal and premium increase as part of the policy. It is recommended that the broker ensure their written procedures are followed when processing the policy 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. Effective 9/4/14, Alaska regulation now states it is the broker's responsibility to ensure the notice is attached to the policy. AS 21.34.100 and 3.AAC 25.050

## **SUMMARY AND SUBSEQUENT EVENTS**

### **Summary**

This was a premium tax audit of Alaska USA Insurance Brokers LLC. The auditor tested 10 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. During the audit one additional procedure was added due to non-compliance noticed in the files regarding prompt delivery of the policy or evidence of insurance.

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

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

- 1) Many quarterly reports are not accurate when filed with missing or inaccurate data reflected.
- 2) Diligent search efforts in the admitted market were created after binding.
- 3) Many of the disclosure stamps were missing from the evidence of insurance.
- 4) The notification regarding the insurer not being regulated by the Alaska Division of Insurance was missing from several files.
- 5) Prompt delivery did not occur for many of the insureds
- 6) There were documents missing from insured's files and some transactions were not documented adequately for when events took place.
- 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 Alaska USA Insurance Brokers LLC be re-audited within the next three years to ascertain compliance.

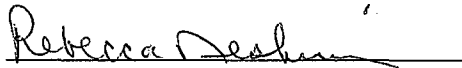
Submitted by:  
Rebecca Nesheim  
Tax Auditor

Affidavit

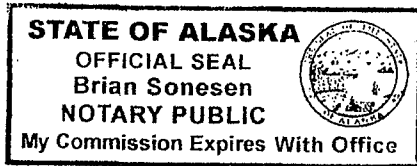
Alaska USA Insurance Brokers LLC  
As of December 31, 2013  
TA 14-01

Juneau, Alaska )  
June 11, 2015 )  
)  
State of Alaska ) ss.  
First Judicial District )

I, being duly sworn, do verify that the report of premium tax audit as of December 31, 2013 of Alaska USA Insurance Brokers LLC is true to the best of my knowledge and belief.

  
Rebecca Nesheim  
Tax Auditor

SUBSCRIBED and SWORN to before me this 12<sup>th</sup> day of June, 2015



  
Notary Public in and for Alaska

My Commission Expires office