

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 19-03)
In the Matter of Audit of)
AmWINS Insurance Brokerage of CA LLC)
_____)

FINDINGS OF FACT

1. An audit report of AmWINS Insurance Brokerage of CA LLC, licensed in the State of Alaska, has been issued by the State of Alaska, Division of Insurance to AmWINS Insurance Brokerage of CA LLC.
2. The audit report of AmWINS Insurance Brokerage of CA LLC (TA 19-03) has been transmitted to George Maggay, Compliance Officer, AmWINS Insurance Brokerage of CA 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 AmWINS Insurance Brokerage of CA LLC (TA 19-03) 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 March 24, 2020.

Dated this 14 day of April, 2020 at Anchorage, Alaska.



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

PREMIUM TAX AUDIT OF

AmWINS Insurance Brokerage of CA LLC

Woodland Hills, CA

Alaska License #20343

TA 19-03

As of December 31, 2018

Issued by

DIVISION OF INSURANCE

DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC

DEVELOPMENT

STATE OF ALASKA



FINAL REPORT:

March 24, 2020

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March 24, 2020

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Lori K Wing-Heier
Director, Division of Insurance
Department of Commerce, Community and Economic Development
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Pursuant to Alaska Statute (AS) 21.06.120, the Alaska Division of Insurance performed a limited and targeted premium tax audit of AmWINS Insurance Brokerage of CA LLC. The audit was conducted by Rebecca Nesheim, tax auditor for the Alaska Division of Insurance.

AmWINS Insurance Brokerage of CA 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, the premium tax regulations 3 AAC 21.550 – 570 and licensing statutes AS 21.27.350 and 21.27.810. This is the fourth premium tax audit of AmWINS Insurance Brokerage of CA LLC conducted by the Alaska Division of Insurance (the division).

Subject Matters Audited

AmWINS Insurance Brokerage of CA LLC (the broker) is an Alaska licensed surplus lines broker based in Woodland Hills, CA. 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, 2017 and December 31, 2018.

METHODOLOGY

The division sent the call letter and initial data requests to the broker's office in Woodland Hills, CA. A list of all Alaska business transactions with nonadmitted insurers was requested for the period to be audited. The broker complied with all data requests. The number of policies written during the audit period was 366, 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 insured name, insurance company, policy type codes, producer names and license numbers were accurate on the forms filed.
 - (7) 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.
- 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 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.
- 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

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

Comments: The eight original quarterly reports with accompanying forms 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 correctly for all policies in the audit files.

Results: Passed (error rate 0%)

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

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

- Location of risk – other states that were part of the risk were not identified – 2
- Insured address incorrect – 2
- Insured name incorrect – 2
- Policy # incorrect – 2
- Endorsement filed after due date on amended report – 1

Total accuracy errors: 9 within 8 distinct files

Misspellings and missing/incorrect digits cause division staff lots of extra work to ensure the data reported is accurate.

Results: Failed (42 files passed & 8 failed, error rate 16%)

Recommendations: It is recommended the broker update their Alaska written procedures to include instructions on how to fill out the transaction report. Procedures should include what data is entered in each field and be specific. A second individual reviewing documents before submission should reduce the number of errors received by the division.

The broker's response: Reemphasize on internal Alaska Surplus Lines Placement Procedures the home state rule for listing all states for multi-state policies. Add note as reminder that for insureds with a DBA, the insured's name must be used for policy issuance and endorsements. A secondary review of the transaction report will be undertaken prior to submission to the DOI using an updated Transaction Report checklist.

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

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 writes some multi-state policies. The home state of the insured was evaluated for all policies and all were determined to be accurately Alaska home state insureds.

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 by the producers. Three files have a problem with the Affidavit:

- Affidavit received from producer after 15 days from binding – 1
- No diligent search located in the files – 2

Results: Passed (47 files passed & 3 failed, error rate 6%)

Recommendations: It is recommended the broker ensure their Alaska specific written procedures are followed that all Affidavits of Due Diligence are received no later than 15 days from binding. The broker can require the documentation prior to binding or before providing evidence of insurance to encourage the producers to provide the documentation on time.

The broker's response: Written procedures for this requirement are current and included in the internal AK Surplus Lines Placement Procedures document. The timeline for meeting this requirement will be highlighted.

8. Review prompt delivery of evidence of insurance

AS 21.34.100(a) and 3 AAC 25.060

Comments: All files have documentation showing the evidence of insurance was provided to the insured within the 30 days of binding.

Results: Passed (error rate 0%)

9. Review required material facts located on evidence of insurance

AS 21.34.100(a)

Comments: One file had evidence of insurance that was missing the location of the subject of insurance. An out of state address particularly necessitates a separate location identified.

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

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

The broker's response: Following form of the applicable statute, AmWINS production system AmLINK includes binder templates that incorporate all material categories to be completed upon issuance of a confirmation of coverage. The procedures also include direction whereby the carrier's quote becomes the carrier's binder, with the AmWINS confirmation of coverage including verbiage that the carrier's quote serves as part of the confirmation.

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

AS 21.34.100(e)

Comments: All 50 files had problems with the required disclosure statement on the evidence of insurance. The broker uses three different stamps on the evidence of insurance. One statement has all the words as required by statute, one statement is missing the word "insurance" in the second sentence, and one statement is missing two words, one in each sentence ("is" and "insurance"). These missing words were not identified in any prior audit. Where the insured's copy was unavailable, auditor relied upon the broker copy.

Here are the different problems found in the files:

- Confirmation of coverage missing one word – 27
- Dec missing one word – 37
- Binder missing one word – 5
- Endorsement missing one word – 15
- Revised confirmation of coverage missing two words – 1
- Dec missing two words – 6
- Endorsement missing two words – 1
- Confirmation of coverage missing entire statement – 1
- Endorsement missing entire statement – 1

Total disclosure errors: 94 within 50 distinct files

Results: Failed (error rate 100%)

Recommendations: It is recommended the broker correct all disclosure statements used to ensure they contain the correct wording per statute. Additionally, it is recommended the broker ensure their written procedures are followed that all evidence of insurance have the required disclosure statement.

The broker's response: Upon the auditor's sharing of her preliminary notes of the audit that included missing words or letters in the required disclosure statements, a review was undertaken to determine the source of those errors. They were tracked back to two templates in the system that had been inexplicably altered at some unknown point in time yet the master templates were correct. These have since been corrected to ensure they reflect the current disclosure language. The placement procedures also include notations regarding the applicable disclosure language for all evidence of insurance.

11. Review notification for use of non-admitted insurer
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AS 21.34.110

Comments: The broker provided the notification to the insured in all files appropriately prior to the insured being subject to the premium charged.

Results: Passed (error rate 0%)

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
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3 AAC 25.050

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

Results: Passed (47 files passed & 3 failed, error rate 6%)

Recommendations: It is recommended the broker ensure their Alaska specific written procedures are followed that all policies include the Alaska Policyholder Notice. The broker should contact the insurance company to include the notice when it is missing.

The broker's response: The written procedures include direction that all policies must include the Alaska Policyholder Notice and if not, that a request be sent to the carrier requesting said

endorsement. Through the audit we identified one particular carrier that repeatedly does not include this Notice upon issuance of an Alaska based policy. We have advised the broker teams placing business with this carrier so that they can be proactive, upon receipt of the policy, to request an endorsement to add the Notice.

SUMMARY AND SUBSEQUENT EVENTS

Summary

This was a premium tax audit of AmWINS Insurance Brokerage of CA LLC. 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 are not accurate when filed.
- 2) The disclosure statements used did not meet the statute requirements of word-for-word.

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 AmWINS Insurance Brokerage of CA LLC be re-audited within the next three years to ascertain compliance.

Submitted by:
Rebecca Nesheim
Tax Auditor

Affidavit

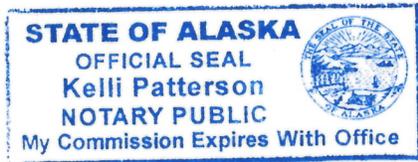
AmWINS Insurance Brokerage of CA LLC
As of December 31, 2018
TA 19-03

Juneau, Alaska)
March 24, 2020)
State of Alaska) ss.
First Judicial District)

I, being duly sworn, do verify that the report of premium tax audit as of December 31, 2018 of AmWINS Insurance Brokerage of CA LLC is true to the best of my knowledge and belief.

Rebecca Nesheim
Rebecca Nesheim
Tax Auditor

SUBSCRIBED and SWORN to before me this 14th day of April, 2020



Kelli Patterson
Notary Public in and for Alaska
My Commission Expires with Commission