

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 19-05)
In the Matter of Audit of)
Brown and Riding Insurance Services Inc.)

)

FINDINGS OF FACT

1. An audit report of Brown and Riding Insurance Services Inc., licensed in the State of Alaska, has been issued by the State of Alaska, Division of Insurance to Brown and Riding Insurance Services Inc.

2. The audit report of Brown and Riding Insurance Services Inc. (TA 19-05) has been transmitted to Niloofar Farshadi, Compliance Officer, Brown and Riding 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 Brown and Riding Insurance Services Inc. (TA 19-05) 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 7, 2020.

Dated this 7th day of May, 2020 at Anchorage, Alaska.



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

PREMIUM TAX AUDIT OF

Brown and Riding Insurance Services Inc.

Los Angeles, CA

Alaska License #93079

TA 19-05

As of June 30, 2019

Issued by

DIVISION OF INSURANCE

DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC

DEVELOPMENT

STATE OF ALASKA



FINAL REPORT:

May 7, 2020

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May 7, 2020

Lori K Wing-Heier
Director, Division of Insurance
Department of Commerce, Community and Economic Development
550 West 7th 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 Brown and Riding Insurance Brokers Inc. The audit was conducted by Rebecca Nesheim, tax auditor for the Alaska Division of Insurance.

Brown and Riding Insurance Brokers 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 Brown and Riding Insurance Brokers Inc. conducted by the Alaska Division of Insurance (the division).

Subject Matters Audited

Brown and Riding Insurance Brokers Inc. (the broker) is an Alaska licensed surplus lines broker based in California. 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 July 1, 2017 and June 30, 2019.

METHODOLOGY

The division sent the call letter and initial data requests to the broker's office in California. 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 1,215, from which a sample of 50 files was selected for audit. During the audit it was determined one policy was flat cancelled so another file was randomly selected to replace the initial file.

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

- Insured name incorrect – 1
- Producer license # incorrect – 1
- Insured address incorrect – 1
- Location of risk – other states that were part of the risk were not identified – 1
- Missing adequate description of subject – 1
- Not identifying all Insurance companies part of a subscription policy– 2

Total accuracy errors: 7 within 6 distinct files

Not an error for this audit but it will be in future audits if not corrected: endorsement invoice date reported one day earlier than the actual invoice date. There was no effect on which report this transaction was to be filed but they need to match for compliance purposes and to ensure quarters are not crossed.

The errors on each quarterly report are very high. For the eight quarters in the audit, there were a minimum of 188 errors. It takes hours for the division staff to identify the problems, write up the issues, and confirm the corrections with each subsequent report filed.

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

Recommendations: It is recommended the broker modify their Alaska specific written procedures for more details on what is expected for each item of the report of surplus lines transaction to reduce the number of errors identified by the division staff. It is also recommended to modify the procedures to change the filing requirement to the Online Premium Tax for Insurance (OPTins). A second individual reviewing the report before submission should reduce the number of errors received by the division.

The broker's response: Per the recommended changes, our internal Compliance Filing procedure has been updated to include the following:

- Detailed instructions on the exact information required in the Quarterly Report, column by column.
- Defining the dates of each quarter and how to handle uncommon issues, such as Master's Builder's Risk policies.
- Clarifying the steps to submit the Quarterly Report in OPTins.

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. Although no errors in the test, it is recommended the broker modify their Alaska specific written procedures to identify OPTins as the required location for making the payments to Alaska.

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. The errors found during the audit had no impact on the accuracy of the payments.

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 found to all to have Alaska as the home state.

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. Four Affidavits had problems:

- Received from producers after 15 days from binding – 3
- Nothing in insured's file – 1

Results: Passed (46 files passed & 4 failed, error rate 8%)

Recommendations: It is recommended the broker modify their Alaska specific written

procedures to ensure 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: Currently, Brown & Riding procedures specify that the Due Diligence form should be received back within 15 days from binding.

- Our Alaska procedure page on SharePoint says “Diligent Effort – must be completed by agent prior to binding and stamped received no later than 15 days after binding.”
- The current AK Checklist says “The Affidavit of Due Diligence has been received confirming a diligent search of the admitted market was completed per AS 21.34.020, # AAC25.010 and .035.”
- The “How We Do Things” procedures related to Surplus Lines Filings say “If Brown and Riding will be filing the surplus lines taxes, all complete and correct required documents (with exception of policy declarations page) will be filed and tagged in the surplus lines section within 15 days from effective date of the policy.”

In order to enforce this further, we will be making the following changes:

- Alaska procedure page on SharePoint: Draw attention to the “prior to binding” wording by highlighting, bolding, and/or underlining in order to make it more prominent.
- AK Checklist: Will add “within 15 days” to the wording on the checklist.
- Will send a company-wide email reminder of the AK requirements, including the importance of receiving Due Diligence back within 15 days of binding.

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: Two files were missing the location of subject on the confirmation of coverage. This material fact is especially important when the insured is based outside of Alaska. When the confirmation of coverage was missing any material fact, the policy sent within the 30 days from binding was evaluated.

Results: Passed (48 files passed & 2 failed, error rate 4%)

Recommendations: It is recommended the broker modify Alaska specific written procedures to include what material facts regarding the coverage, insured, insurer, and broker must be on evidence of insurance when the policy is not available within 30 days from binding. Review statute for details.

The broker's response: The 2 files that failed were multi-state policies (ex. risk in AK but mailing address in another state). Currently, the Brown & Riding “Confirmation of Coverage”

(aka COC) template displays the mailing address only. This template will be changed to show both mailing address and physical address by default so that Production will not need to manually add any material facts.

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

AS 21.34.100(e)

Comments: Two policy declarations did not have the disclosure statement. Where the insured's copy was unavailable, auditor relied upon the broker copy.

Results: Passed (48 files passed & 2 failed, error rate 4%)

Recommendations: It is recommended the broker ensure written procedures are followed that all evidence of insurance have the required disclosure statement. There is lots of white space on the first page of the confirmation of coverage, this is the preferred location for where the disclosure should go so the insured does not miss it as it is currently being buried on page three or beyond.

The broker's response: In order to enforce inclusion of disclosure statement further, we will be making the following changes:

- It appears one of the failed policies was a situation in which a policy was sent to the agent (with the required wording), the carrier then issued a revised policy, and this 2nd policy was sent to the agent without the required wording. This will be used as a case example, and will send a company-wide email reminder of the AK requirements, including the importance of stamping all policies with required wording.

The state disclosure wording is automatically placed on the COC but we will look into moving the location of it from the last page to the first page in order to make it more visible. Because this same template is used for all states, moving the wording may cause problems (ex. large blank space on COC in states where no wording is required) and might not be implemented but further testing is required in order to make a determination.

11. Review notification for use of non-admitted insurer

AS 21.34.110

Comments: The broker generally includes the notification to the insured at the time of quoting. Two files did not include the required notification of the three points: 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.

Results: Passed (48 files passed & 2 failed, error rate 4%)

Recommendations: It is recommended the broker ensure Alaska specific written procedures are followed to include the Alaska notification language on or with the quote describing the surplus lines insurance company as required by statute.

The broker's response: Currently, Brown & Riding's system (ALIS) automatically includes the required quote wording as a separate PDF attachment "AK Notice." We realize this may cause

errors (ex. if someone accidentally deletes the attachment, or chooses not to send it). ALIS will be modified so the required wording is printed directly on the quote rather than included as a separate attachment. This will require creation of a dynamic placeholder, which the ALIS system programmers are working on. Further, this item will be included as part of the company-wide email reminder of the AK requirements.

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

Results: Passed (48 files passed & 2 failed, error rate 4%)

Recommendations: It is recommended the broker ensure their Alaska specific written procedures are followed to include a step to ensure policies contain the Alaska Policyholder Notice. Bulletin 08-06 should be reviewed for the exact wording. The broker should contact the insurance company to include the notice when it is missing.

The broker's response: The requirement that all policies include the "Alaska Policyholder Notice" is currently part of the AK Checklist (under both Quoting section (to ensure its on forms list) and Policy Review section (to ensure form is in policy)). In order to enforce this further, we will be making the following changes:

- Alaska procedure page of SharePoint will be updated to specify that if the Notice is not included, the insurance company should be contacted and request that they add it
- This will be included as part of the company-wide email reminder of the AK requirements
- Currently, the "AK Checklist" functions as a guide, and is not required to be completed and retained in the file. We will be making a change to ALIS so that (for AK files only) the "AK Checklist" appends to the "QC Checklist", which is a separate checklist already required to be completed by Production for all policies in all states and retained in the file.

SUMMARY AND SUBSEQUENT EVENTS

Summary

This was a premium tax audit of Brown and Riding Insurance Brokers 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.

One significant issue did arise during the audit that affects the compliance with Alaska statutes and regulations.

- 1) The quarterly reports are consistently not accurate when filed. Numerous transactions have incorrect or missing information or are filed late, subjecting the broker to penalties.

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 Brown and Riding Insurance Brokers Inc. be re-audited within the next three years to ascertain compliance.

Submitted by:
Rebecca Nesheim
Tax Auditor

Affidavit

Brown and Riding Insurance Brokers Inc.
As of June 30, 2019
TA 19-05

Juneau, Alaska)
May 7, 2020)
State of Alaska) ss.
First Judicial District)

I, being duly sworn, do verify that the report of premium tax audit as of June 30, 2019, of Brown and Riding Insurance Brokers Inc. is true to the best of my knowledge and belief.

Rebecca Nesheim
Rebecca Nesheim
Tax Auditor

SUBSCRIBED and SWORN to before me this 07 day of May, 2020

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

Anna Latham

Notary Public in and for Alaska

My Commission Expires w/office