

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 20-04)
In the Matter of Audit of)
Pacific International Underwriters Inc)
_____)

FINDINGS OF FACT

1. An audit report of Pacific International Underwriters Inc, licensed in the State of Alaska, has been issued by the State of Alaska, Division of Insurance to Pacific International Underwriters Inc.

2. The audit report of Pacific International Underwriters Inc (TA 20-04) has been transmitted to Jillian Fassburg, Compliance Officer, Pacific International Underwriters 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 Pacific International Underwriters Inc (TA 20-04) 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 January 4, 2021.

Dated this 4 day of January, 2021 at Anchorage, Alaska.



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

PREMIUM TAX AUDIT OF

Pacific International Underwriters Inc

Edmonds, WA

Alaska License #7891

TA 20-04

As of June 30, 2020

Issued by

DIVISION OF INSURANCE

DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC

DEVELOPMENT

STATE OF ALASKA



FINAL REPORT:
January 4, 2021

TABLE OF CONTENTS

	PAGE
1) TABLE OF CONTENTS.....	2
2) SALUTATION	3
3) SCOPE OF AUDIT.....	3
4) METHODOLOGY	4
5) PREMIUM TAX AUDIT	6
6) SUMMARY AND SUBSEQUENT EVENTS.....	11
7) AFFIDAVIT	12



January 4, 2021

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 Pacific International Underwriters Inc. The audit was conducted by Rebecca Nesheim, tax auditor for the Alaska Division of Insurance.

Pacific International Underwriters 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 first premium tax audit of Pacific International Underwriters Inc under new ownership conducted by the Alaska Division of Insurance (the division).

Subject Matters Audited

Pacific International Underwriters Inc (the broker) is an Alaska licensed surplus lines broker based in Edmonds, WA. 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, 2018 and June 30, 2020.

METHODOLOGY

The division sent the call letter and initial data requests to the broker's office in Edmonds, WA. 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 218, 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 the policy was included in the quarterly filing based upon the effective date of the policy.
 - (5) Verified the insured name, insured address, insurance company, producer names and license numbers were accurate on the forms filed.
 - (6) Verified the descriptions of the subject and locations of risk were identified on the reports.
- 4) Verify if tax and filing fee payments were made on time and by ACH.
 - i) Audit steps taken:
 - (1) Confirmed when the payments were received by the Alaska Division of Insurance and the payment method.
- 5) Verify tax and filing fee payments were made accurately.
 - i) Audit steps taken:
 - (1) Confirmed if the tax and fee payments matched the quarterly reports as filed.
- 6) Confirm Alaska is the home state of the insured.
 - i) Audit steps taken:
 - (1) Verified where the principal place of business or residence of the insured is located.

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

Acceptable Error Rate:

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

PREMIUM TAX AUDIT

- | | |
|--|---|
| 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 incorrectly for nine policies in the audit files. Two company policy fees and seven inspection fees were not included in premium on the quarterly report. All company fees are considered premium and are subject to premium tax and filing fees. Inspection fees regardless of who pays for them are to be included in premium (AS 21.97.900(36)). The company may require the broker to charge the fees but the company is the one requiring the inspection made in consideration for an insurance contract. The cost of inspection is often not known at the time the policy is bound. The inspection fees currently are part of the wholesale policy fee charged.

These errors affect two additional audit tests:

1. Accuracy of the Quarterly Reports
2. Accuracy of Tax and Fee Payments

The respective reports will need to be amended for the two company policy fees.

Results: Failed (41 files passed & 9 failed, error rate 18%)

Recommendations: It is recommended the broker create Alaska specific written procedures to ensure all fees are identified correctly as taxable or nontaxable and for how they will identify the inspection fees to include in the calculation of premium. Reviewing Bulletin 04-14 will help identify the different fees.

The broker's response: We have created Alaska specific written procedures identifying which fees are subject to taxes, including the handling of inspection fees.

- | | |
|--|---|
| 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 forms and Quarterly Reports filed with the division:

- Policy term incorrect – 2
- Endorsement invoice date incorrect – 1
- Other states involved in the risk not identified – 4
- Insured name incorrect – 1

Total accuracy errors: 8 within 7 distinct files

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

Recommendations: It is recommended the broker create Alaska specific written procedures to include instructions on how to fill out the transaction report. Procedures should include what data is entered in each field.

The broker's response: We have created Alaska specific written procedures which include instructions on how to fill out the Report of Surplus Lines Transaction forms. For the 2 files where the policy term was incorrect, the 1 file where the endorsement invoice date was incorrect and the 1 file where the insured name was incorrect were all clerical/typo errors. In the procedure guide and office wide virtual meeting we have provided training regarding the need to list other states involved in the risk.

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. The errors found during the audit in the premium calculation affects the accuracy of the tax and fee payments. This flow-through finding is addressed in its specific audit test.

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 accurately determined to be Alaska.

Results: Passed (error rate 0%)

7. Review diligent search effort made to place insured with an admitted insurer
AS 21.34.020, 3 AAC 25.010 and .035

Comments: The broker has elected to use the Affidavit of Due Diligence for documenting the diligent search by the producers. Six Affidavits were either received from producers after 15 days from binding or the documentation was not maintained in the insureds file.

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

Recommendations: It is recommended the broker create 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: We have implemented a new procedure – we will not bind an Alaska surplus line risk without having the Due Diligence form in hand. This is part of a checklist we have created; the Due Diligence form must be in hand in order to bind and must be attached to our agency management system for record keeping.

8. Review prompt delivery of evidence of insurance

AS 21.34.100(a) and 3 AAC 25.060

Comments: All files have documentation showing 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: The broker does not include all the required material facts on their binders provided to the producer for the insured. However, most of the policies are provided within 30 days of binding and the policies have the material facts required. One policy in the audit was sent after 30 days from binding so the binder was evaluated. The binder was missing the insured address, description and location of the subject of insurance and a general description of the coverages of the insurance.

Company binders are not generally sent with PIU's binder. Yet some of the broker's binders state on them: "PER ATTACHED BINDER FROM THE CARRIER." In these circumstances, the binders do not meet the material facts requirements when the company binder is not provided.

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

Recommendations: It is recommended the broker create Alaska specific written procedures to include what material facts regarding the coverage, insured, insurer, and broker must be on evidence of insurance. It is recommended the broker's binders be modified to include all material facts. If a document with the material facts will be referenced, the document must also be attached to the broker's binder. Review statute for details.

The broker's response: In the case where the carrier sends a binder, we will no longer indicate "per attached binder from the carrier" on our own binders that are sent. Instead we will include

all material facts regarding coverage, insured and insurer on our own binders. We will continue our practice of not sending out carrier binders, and only send our own.

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

AS 21.34.100(e)

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

- Certificate missing surplus lines broker name – 3
- No disclosure on nonpremium bearing endorsement – 2
- Disclosure missing one word (preloaded by company) – 8

Total disclosure errors: 13 within 11 distinct files

One disclosure statement added by the broker was less than the 10-point type required by statute but the company had included a preloaded disclosure statement that met statute requirements so no finding.

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

Recommendations: It is recommended the broker create Alaska specific written procedures that includes all evidence of insurance have the required disclosure statement in at least 10-point type. The disclosure statement should be located on the first page of the evidence of insurance so the insured will not miss it. It is further recommended to include in the procedures the surplus lines broker name must be on all evidence of insurance.

The broker's response: We have created Alaska specific written procedures regarding the AS 21.34.100 disclosure and when it is required, including on non premium bearing endorsements. The certificates issued without the SL broker name were issued by the retail agent. In those cases, we will reissue the certificate with our own disclosure stamp including the SL broker name. Regarding the disclosure missing a word (preloaded by the company) we immediately advised the company of this and are assured their IT team has fixed the issue. We will continue to monitor this to make sure these policies are issued with the correct wording, and if not, we will add our own disclosure stamp.

11. Review notification for use of non-admitted insurer

AS 21.34.110

Comments: All files included documentation showing the notification was provided to the producers for the insured.

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

3 AAC 25.050

Comments: Ten policies included an incorrect notice in the policies instead of the Alaska Policyholder Notice of premium increase and nonrenewal as designated in Bulletin 08-06.

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

Recommendations: It is recommended the broker create Alaska specific written procedures 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: We have reviewed and distributed to the staff a copy of Bulletin 08-06 so everyone is aware of the exact wording to be used as per the Alaska Policyholder Notice of premium increase and nonrenewal.

SUMMARY AND SUBSEQUENT EVENTS

Summary

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

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

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

- 1) Some inspection fees and company policy fees were not included in premium.
- 2) Quarterly reports are not all accurate when filed.
- 3) The diligent search in the admitted market was not documented in some of the files or were received after 15 days from binding.
- 4) The disclosure statement was either missing a word or entirely missing from the evidence of insurance in some files.
- 5) The correct 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 Pacific International Underwriters Inc be re-audited within the next three years to ascertain compliance.

Submitted by:
Rebecca Nesheim
Tax Auditor

Affidavit

Pacific International Underwriters Inc
As of June 30, 2020
TA 20-04

Juneau, Alaska)
January 4, 2021)
State of Alaska) ss.
First Judicial District)

I, being duly sworn, do verify that the report of premium tax audit as of June 30, 2020 of Pacific International Underwriters Inc is true to the best of my knowledge and belief.

Rebecca Nesheim

Rebecca Nesheim
Tax Auditor

SUBSCRIBED and SWORN to before me this 4th day of January, 2021



Kelli Patterson

Notary Public in and for Alaska

My Commission Expires with office