

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

Order # TA 21-01)
In the Matter of Audit of)
Cochrane Agency Inc)
_____)

FINDINGS OF FACT

1. An audit report of Cochrane Agency Inc, licensed in the State of Alaska, has been issued by the State of Alaska, Division of Insurance to Cochrane Agency Inc.
2. The audit report of Cochrane Agency Inc (TA 21-01) has been transmitted to Thomas Cochrane, Compliance Officer, Cochrane Agency 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

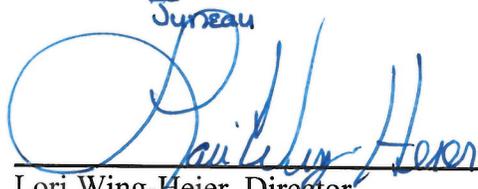
IT IS ORDERED

1. Pursuant to AS 21.06.150(b)(1), the audit report of Cochrane Agency Inc (TA 21-01) 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 14th, 2021.

Dated this 14th day of May, 2021 at Anchorage, Alaska.

Juneau


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

PREMIUM TAX AUDIT OF

**Cochrane Agency Inc
Spokane, WA
Alaska License # 55860**

TA 21-01

As of June 30, 2020

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



**FINAL REPORT:
May 14, 2021**

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May 14, 2021

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Lori K Wing-Heier
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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 Cochrane Agency Inc. The audit was conducted by Rebecca Nesheim, tax auditor for the Alaska Division of Insurance.

Cochrane Agency 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 Cochrane Agency Inc conducted by the Alaska Division of Insurance (the division).

Subject Matters Audited

Cochrane Agency Inc (the broker) is an Alaska licensed surplus lines broker based in Spokane, 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 non admitted company 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 Spokane, 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 214, from which a sample of 50 files was selected for audit. During the audit it was determined one policy met the definition of wet marine and transportation and is not considered a surplus lines policy in AS 21.34; thus, it was removed from all audit tests except for two. The remaining number of policies in the audit is 49.

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 .180

Comments: Seven original quarterly reports with accompanying forms were filed on time with one filed late. The 2nd Quarter 2020 Report was filed on September 22, 2020 instead of September 1, 2020.

Results: Failed (7 reports passed & 1 failed, error rate 12.5%)

Recommendations: It is recommended the broker revise their Alaska specific written procedures to include the due dates for the Quarterly Report and ensure the reports are filed by the due date. The OPTins submission can be accomplished weeks in advance of the due date selected if that would help in meeting compliance.

The broker's response: Cochrane & Company has implemented calendar due dates to ensure Quarterly Reports are filed on time. Cochrane & Company has hired additional staff members to handle this requirement and work the submissions in advance of the due date to remain in compliance with the state of Alaska.

2. Verify the accuracy of the premium calculation

AS 21.34.180

Comments: The premium was calculated incorrectly for 11 policies in the audit files. Ten did not include inspection fees in premium and one did not include both inspection fees and a carrier policy fee in premium. The additional tax and fees are negligible, so amendments are not required.

The broker charges a broker fee on most accounts but they use the term “policy fee,” which is generally associated with an insurance company fee.

These errors affect two additional audit tests:

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

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

Recommendations: It is recommended the broker ensure their written procedures are being followed that inspection fees and carrier fees are identified as taxable and are correctly included in premium when charging the insured and reporting in the Quarterly Report. It is also recommended the broker rename their “policy fee” to “broker fee” or something similar in order for the insured to know exactly what they are paying for. Reviewing Bulletin 04-14 will help identify the different fees.

The broker's response: Cochrane & Company recognizes the need to have inspections fees and carrier fees as taxable and will work with our Information Technology staff to initiate automated workflow updates. In the interim, until the automated system is updated due to limited in-house resources, this will be a manual process in which all Cochrane & Company staff members will be notified of the manual change required to the tax calculations. Our Surplus Lines Representatives will assist in providing a double check at the time of preparing the submissions to assure we are within compliance with the state of Alaska.

<p>3. Verify the accuracy of all quarterly reports filed AS 21.34.080 and .170, 3 AAC 25.090 and .100</p>

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

- Insured address incorrect, the location of risk used instead of insured's address on the evidence of insurance – 43 policies and 5 endorsements.
- Insured name incorrect as only dba reported – 4
- Filed in the wrong report – 2. This error affects the Accuracy of Tax and Fee Payments audit test.
- Policy type code mismatch between initial policy and endorsement – 1
- Producer number missing on original report filed – 3
- Endorsement identified as initial policy on original report filed – 1
- Other states not identified as one of the locations of risk – 1
- Insurance company incorrect – 2

Total accuracy errors: 62 within 45 distinct files

During the two-year audit period, there were 21 amended reports for the eight quarterly reports filed. 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 (5 files passed & 45 failed, error rate 90%)

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

The broker's response: Cochrane & Company has implemented procedures to ensure Quarterly reports are accurately filed. In addition, we have hired additional staff members to double check quarterly reports before they are submitted to remain in compliance with the state of Alaska.

<p>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</p>
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Comments: There were 11 due dates for payments between the original reports and amended reports. The 2nd Quarter 2020 taxes and fees were paid late on September 22, 2020 instead of September 1, 2020. All payments were made by ACH.

Results: Passed (10 payments passes & 1 failed, error rate 9%)

Recommendations: It is recommended the broker revise their Alaska specific written procedures to include the due dates for the Quarterly Report and ensure the reports are filed by the due date. The OPTins submission can be accomplished weeks in advance of the due date selected, if that would help in meeting compliance.

The broker's response: Cochrane & Company has implemented calendar due dates to ensure Quarterly Reports are filed on time. Cochrane & Company has hired additional staff members to handle this requirement and work the submissions in advance of the due date to remain in compliance with the state of Alaska.

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 and 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%)

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 correctly identified as Alaska risk.

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. Two Affidavits were received from producers after 15 days from binding.

Results: Passed (47 files passed & 2 failed, error rate 4%)

Recommendations: It is recommended the broker ensure they are following their written procedures that requires follow up with producer twice before the 15 days from binding has expired in order to obtain the Affidavit. 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: Cochrane & Company will list the fully completed diligent form in the quote as a subjectivity. At the time the bind order is received within Cochrane & Company, the Underwriting staff will confirm if the diligent has been received. If the diligent has not been received the staff will set a suspense for 5 days. If after 5 days the diligent has not been received, a final suspense will be set for 1 day prior to 15 days after binding to obtain the fully completed diligent forms.

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: Nine files included a lack of required material facts on binders and policies. If the binder was missing facts, the policy sent within the 30 days from binding was evaluated. The majority of the binders were missing facts but as the majority of policies were sent within 30 days, the missing facts are not audit findings.

Here are the different issues that the broker is not compliant with regarding this statute:

- Binder and policy missing broker license # – 6
- Binder missing broker license # and policy sent after 30 days from binding – 2
- Binder missing coverage limits and policy sent after 30 days from binding – 1

Results: Failed (40 files passed & 9 failed, error rate 18%)

Recommendations: It is recommended the broker revise their binders to ensure all required material facts are provided to the insured for when a policy is not provided within 30 days from binding. Review statute for details on the material facts required.

The broker's response: Cochrane & Company recognizes the need for the required material facts located on each evidence of insurance and will work with our Information Technology staff to initiate automated workflow updates. In the interim, until the automated system is updated due to limited in-house resources, this will be a manual process in which all Cochrane & Company staff members will be required to add this verbiage to the quotes and binders prior releasing to the insured and retail agents.

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

AS 21.34.100(e)

Comments: All 49 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:

- No disclosure on binder – 49
- No disclosure on dec – 3
- No disclosure on proof of coverage – 6
- No disclosure on endorsement – 21
- No disclosure on certificate – 19
- Disclosure illegible on dec – 1

Total disclosure errors: 99 within 49 distinct files

Results: Failed (error rate 100%)

Recommendations: It is recommended the broker revise their written procedures to include all evidence of insurance have the required disclosure statement and is legible. It is further recommended to revise the written procedures to include the disclosure statement on all premium bearing and non-premium bearing endorsements as they are also evidence of insurance.

The broker's response: Cochrane & Company recognizes the need for the evidence of insurance for use of non-admitted insurers to include the appropriate disclosures. We will work with our Information Technology staff to initiate automated workflow updates to the distribution of these documents. In the interim, until the automated system is updated due to limited in-house resources, this will be a manual process for endorsements and certificates of insurance. We are able to streamline binders and we already have a procedure in place for stamping the dec pages however will reiterate to staff the requirement to utilize the in-house distribution tool which automatically stamps the dec pages. Cochrane & Company staff members will be notified of the manual process required to add this verbiage prior to releasing to the insured and retail agents.

11. Review notification for use of non-admitted insurer

AS 21.34.110

Comments: The broker does not provide the notification to the insured. The notification is: 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: Failed (error rate 100%)

Recommendations: It is recommended the broker revise their Alaska specific written procedures to include the Alaska notification language in the quote or at the same time as the quote to the insured describing the surplus lines insurance company as required by statute.

The broker's response: Cochrane & Company will add the Alaska notification language to be included on the quote template describing the surplus lines insurance company as required by statute.

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: The broker includes the Alaska Policyholder Notice in the policies they have binding authority for new business policies. All renewal policies are supposed to have a "*" next to the forms that remain part of the policy but are not re-printed at renewal time. Ten renewal policies did not include the "*" next to the Alaska Policyholder Notice and it was not provided to the insured. Three other policies did not include the Notice.

Results: Failed (36 files passed & 13 failed, error rate 26%)

Recommendations: It is recommended the broker modify their 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 on those non-binding authority accounts.

The broker's response: The entire policy with all policy forms is now being distributed to the insured/retail agent. Cochrane & Company made this procedure change with the carrier to remove the "*" from being included in both new business and renewal policies.

SUMMARY AND SUBSEQUENT EVENTS

Summary

This was a premium tax audit of Cochrane Agency 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) The Quarterly Reports are not consistently filed on time.
- 2) The premium was not calculated accurately for many policies.
- 3) The quarterly reports are consistently not accurate.
- 4) Some material facts were missing on evidence of insurance.
- 5) The disclosure language was missing from most of the evidence of insurance.
- 6) The required notification to the insured regarding the use of a nonadmitted insurer was not found in any file.
- 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 Cochrane Agency Inc be re-audited within the next three years to ascertain compliance.

Submitted by:
Rebecca Nesheim
Tax Auditor

Affidavit

Cochrane Agency Inc
As of June 30, 2020
TA 21-01

Juneau, Alaska)
May 14, 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 Cochrane Agency Inc is true to the best of my knowledge and belief.

Rebecca Nesheim
Rebecca Nesheim
Tax Auditor

SUBSCRIBED and SWORN to before me this 17 day of May, 2021

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

Anna Latham
Notary Public in and for Alaska

My Commission Expires with office