

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 15-02)
In the Matter of Audit of)
M J Hall of Alaska Inc.)
_____)

FINDINGS OF FACT

1. An audit report of M J Hall of Alaska Inc., licensed in the State of Alaska, has been issued by the State of Alaska, Division of Insurance to M J Hall of Alaska Inc.
2. The audit report of M J Hall of Alaska Inc. (TA 15-02) has been transmitted to John Tatum, Compliance Officer, M J Hall of Alaska 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 M J Hall of Alaska Inc. (TA 15-02) 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 August 21st, 2015.

Dated this 21st day of August, 2015 at Anchorage, Alaska.



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

PREMIUM TAX AUDIT OF

**M J Hall of Alaska Inc.
Anchorage, AK
Alaska License # 8349**

TA 15-02

As of December 31, 2014

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



**FINAL REPORT:
August 21, 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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August 21, 2015

Lori K Wing-Heier, CIC, CRM
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) 21.06.130, the Alaska Division of Insurance performed a limited and targeted premium tax audit of M J Hall of Alaska Inc. The audit was conducted by Rebecca Nesheim, tax auditor for the Alaska Division of Insurance.

M J Hall of Alaska 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 and the premium tax regulations 3 AAC 21.550 – 570. This is the third premium tax audit of M J Hall of Alaska Inc. (the broker) conducted by the Alaska Division of Insurance.

Subject Matters Audited

The broker 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, 2013 through December 31, 2014.

METHODOLOGY

The tax auditor sent the call letter and initial data requests to the broker's office in Stockton, CA. 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 455, from which a sample of 50 files was selected for audit. In the original 50 was an admitted company policy. Another file was randomly selected to replace the 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 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 prompt delivery of evidence of insurance AS 21.34.100(a) and 3 AAC 25.060
 - i) Audit steps taken:
 - (1) Reviewed dates of evidence of insurance receipt/creation and forwarding 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
- 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 stamp 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) Review documentation required to be maintained
 - i) Audit steps taken:
 - (1) Reviewed the documentation of each action taken to confirm sufficient details were maintained as required in AS 21.27.350.
 - (2) Reviewed the documentation for meeting the additional requirements for surplus lines brokers in AS 21.27.810.
- 15) 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: Two quarterly reports out of the eight required for the audit period were filed late, 2nd and 3rd quarters 2014. Late filing penalties were assessed when the reports were received prior to the audit.

Results: Failed (6 reports passed & 2 failed, error rate 25%)

Recommendation: It is recommended the broker create written procedures that include the due dates for the quarterly reports. Having procedures should reduce late filings due to personnel changes.

Broker's response: Written procedures have been established regarding the filing of quarterly reports and a copy of these procedures was supplied to the Division of Insurance.

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: There were various accuracy problems with the quarterly reports as filed:

- The insured name was not on the Report of Surplus Lines Transaction, just the dba name – 12
- The description of the subject was not sufficient to meet statute requirements – 6
- Policy Type code was missing – 1
- Policy not filed in original report but on an amended report - 1

Total accuracy errors: 20 within 16 distinct files

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

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

Broker's response: Written procedures have been amended to include all necessary items required on the RSLT. A copy of the checklist was supplied to the Division of Insurance. We currently have two individuals reviewing the RSLT.

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

AS 21.34.180

Comments: The home state of the insured was Alaska as indicated by all files in the audit.

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: Two quarterly payments out of the ten required for the audit period were paid late, 2nd and 3rd quarters 2014. Late payment penalties were assessed when payment was received prior to the audit. All payments were made by ACH.

Results: Failed (8 payments passed & 2 failed, error rate 20%)

Recommendation: It is recommended the broker create written procedures that include all necessary information on how to make the payment as well as the due dates for the quarterly payments. Having procedures should reduce late payments due to personnel changes.

Broker's response: Written procedures have been established regarding payments and due dates. A copy was supplied to the Division of Insurance.

6. Verify tax and filing fees payments were made accurately

AS 21.34.180, 3 AAC 21.550 - .570

Comments: The payments were made accurately based upon the reports as they were filed.

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. One file did not include documentation in the file.

Seven additional issues were noted but will not be considered findings for this audit but if found in future audits, they will be findings. When the broker is both the retailer and the broker and knows when the risk is on the placement list, documentation is still required but the Division will allow this practice in this audit even though the Affidavit was created but not signed. In addition, the declinations must have all the required elements per regulation such as the date of the declination as a declination for the same class of business from an insurer is only valid for 180 days.

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

Recommendations: There was a law change effective September 4, 2014 that affects the requirements for the diligent search. Based on the new law, it is recommended that the broker modify their written procedures to ensure all Affidavits of Due Diligence or other forms of documentation are received within 15 days of binding including those with risks located on the placement list. If the broker is also the retailer in the transaction, then the required diligent search must occur prior to binding.

Broker's response: Brokers are aware of this new law and our written procedures have been amended to reflect changes. A copy was supplied to the Division of Insurance.

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 the bind date.

Results: Passed (error rate 0%)

9. Review required elements located on evidence of insurance

AS 21.34.100(a)

Comments: Fourteen files included problems with the required material facts on binders.

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

- Insured's address missing - 13
- Insured's name missing, just dba listed – 1
- Signature of individual used after she was no longer working for the broker - 1

Total errors: 15 within 14 distinct files

Results: Failed (36 files passed & 14 failed, error rate 28%)

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

Broker's response: Written procedures have been updated to show all necessary items to be included on any evidence of insurance.

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

AS 21.34.100(e)

Comments: The broker consistently included the disclosure stamp on all endorsements. Two files demonstrated a problem with the required disclosure stamp on other evidence of insurance.

- No stamp on policy – 1
- No stamp on binder – 1

Total disclosure errors: 2 within 2 distinct files

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

Recommendations: It is recommended that the broker ensure their written procedures are followed that all evidence of insurance have the required disclosure stamp wording and is legible.

Broker's response: Our management system is being updated to automatically print the appropriate wording on both the quote and binder for all non-admitted business.

11. Review notification for use of non-admitted insurer

AS 21.34.110

Comments: The broker included the notification that the insurance is being placed with a company that is not regulated by the Alaska Division of Insurance in the quote sent to the insured in all files.

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: All policies included the Alaska Policyholder Notice.

Results: Passed (error rate 0%)

14. Review documentation for sufficient detail of each transaction as well as the additional surplus lines broker records that must be maintained.

AS 21.27.350 and .810

Comments: It appears as though the broker consistently documents all actions taken on a given policy.

Results: Passed (error rate 0%)

SUMMARY AND SUBSEQUENT EVENTS

Summary

This was a premium tax audit of M J Hall of Alaska Inc. The auditor tested 14 standards focusing on the broker's filing of quarter 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 affect the service to the insured and compliance with Alaska statutes and regulations.

- 1) Many quarterly reports are not accurate when filed by not providing the required information by law.
- 2) During transition between compliance officers, the quarterly reports and payments were not filed or paid on time resulting in penalties.
- 3) Several material facts are not adequately documented on evidence of insurance.

The auditor received and reviewed all revised procedures and checklists.

Re-Audit

In closing, the auditor's recommended actions and implementation of the procedures should help the broker correct the problems encountered. It is recommended that M J Hall of Alaska Inc. be re-audited within the next three years to ascertain compliance.

Submitted by:
Rebecca Nesheim
Tax Auditor

Affidavit

M J Hall of Alaska Inc.
As of December 31, 2014
TA 15-02

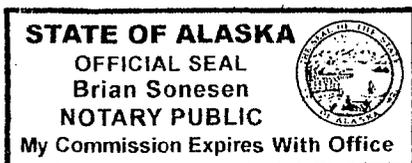
Juneau, Alaska)
August 21, 2015)
State of Alaska) ss.
First Judicial District)

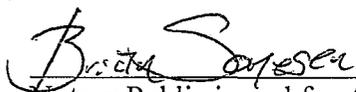
I, being duly sworn, do verify that the report of premium tax audit as of December 31, 2014 of M J Hall of Alaska Inc. is true to the best of my knowledge and belief.



Rebecca Nesheim
Tax Auditor

SUBSCRIBED and SWORN to before me this 21st day of August, 2015





Notary Public in and for Alaska

My Commission Expires off. ce