

ORIGINAL

1 **CERTIFIED MAIL**
2 **RETURN RECEIPT REQUESTED**

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4
5 **STATE OF ALASKA**
6 **DEPARTMENT OF COMMUNITY, COMMERCE, & ECONOMIC DEVELOPMENT**
7 **DIVISION OF INSURANCE**
8 **550 West Seventh Avenue, Suite 1560**
9 **ANCHORAGE, ALASKA 99501-3567**
10

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12
13 **ORDER # MCE P-05-05**) Order under the Provisions of
14) AS 21.06.150(b), approving
15 In the matter of the Market) the Report on Market Conduct
16 Conduct Examination of) Examination.
17 **Lisa Wallis, Alaska Premier**)
18 **Underwriters of Anchorage Alaska**)
19 _____)
20

21
22
23 The Director of Insurance for the State of Alaska, Linda S. Hall, issues this order adopting the
24 Report of Market Conduct Examination of Alaska Premier Underwriters of Anchorage, Alaska
25 (APU) based upon the following findings:

26
27 **FINDINGS OF FACT**
28

29 **Finding No. 1.**

30
31 APU is a resident Surplus Lines insurance broker, located in Anchorage, Alaska, license
32 number 32667, subject to examination pursuant to Alaska Statute (AS) 21.06.130.
33

34 **Finding No. 2**

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36 The Notice of Examination was presented to the examinee on July 28, 2005, which
37 outlined the scope of the examination.
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39 **Finding No. 3.**

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41 A Market Conduct Examination of APU for the period July 1, 2003 through June 30,
42 2005 was conducted between August 29, 2005 and December 28, 2005.
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Finding No. 4.

A Report on Market Conduct Examination of APU on compliance with Alaska Statute and matters enumerated in the Notice of Examination was presented to the examinee on March 23, 2006, and filed with the Alaska Division of Insurance in accordance with AS 21.06.150(b).

Finding No. 5.

APU was afforded the opportunity to respond within 30 days to the Alaska Division of Insurance concerning matters contained in the Report on Market Conduct Examination pursuant to AS 21.06.150(b). A response was not received within the 30 days allowed, as the examinee understood that if she agreed with the examination findings and intended to comply with the recommendations, she did not need to respond, which is correct. However, the examinee stated she did want to reply, which she did within a granted 10 day extension. Said response is appended, but not made a part of the examination report.

Finding No. 6.

The Director of Insurance has fully considered and reviewed to the extent that she considered necessary the Report on Market Conduct Examination, together with the written response of APU, and any relevant portion of the examiner's work papers.

Finding No. 7.

The examination of APU was conducted in accordance with applicable Alaska statutes. The report is a factual account of the findings of the examiners based on tests that determine compliance with Alaska statutes and regulations and supported with appropriate documentation.

CONCLUSIONS OF LAW

Conclusion No. 1.

The examination report was filed with the Division and transmitted to APU in accordance with AS 21.06.150(b).

Conclusion No. 2.

After considering APU's reply, I conclude that the examination report cites sufficient evidence to proceed with administrative enforcement action for conduct described in the report that may violate the Insurance Code.

ORIGINAL

1 Conclusion No. 3.

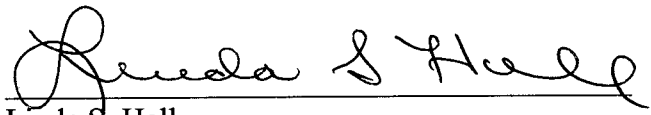
2
3 An order should be issued in accordance with AS 21.06.150(b) approving the
4 examination report. Pursuant to AS 21.06.150(b); the Director of Insurance shall issue an order
5 adopting the report.
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9 **ORDER**

10
11 It is hereby ordered that pursuant to AS 21.06.150(b), the attached Report on the Market
12 Conduct Examination of APU dated March 23, 2006, is approved, and directed that APU's
13 response be appended, but not made a part of the examination.
14

15 This order is effective May 24, 2006.

16
17 Dated this 24th day of May 2006, at Anchorage, Alaska.
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20 
21 _____
22 Linda S. Hall
23 Director
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25

**STATE OF ALASKA
DEPARTMENT OF COMMERCE,
COMMUNITY AND ECONOMIC
DEVELOPMENT**

DIVISION OF INSURANCE

REPORT OF LIMITED MARKET

CONDUCT EXAMINATION

OF

**ALASKA PREMIER UNDERWRITERS
ANCHORAGE, ALASKA**

MCE -P-05-05



**Submitted by
Carol Harbeson and Donald Hale
Insurance Market Analysts**

March 23, 2006

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FINDINGS

The examiners made seven findings. The support for those findings is shown under the applicable sections.

Finding #1: The Policy Fees collected by AKPU are considered premium as described in AS §21.90.900(34). AKPU is collecting these Policy Fees in accordance with AS §21.90.900(34). Policy Fees are also collected in accordance to agreements made with contracts with the carriers. (Page 4)

Finding #2: AKPU uses recycled paper, at times containing confidential client information, to service other clients' files. (Page 4)

Finding #3: AKPU does not have a procedure manual for training or operations. (Page 5)

Finding #4: AKPU does not routinely check the licensing status of the retail agents submitting applications. (Page 6)

Finding #5: AKPU does not consistently verify that due diligence is made, and does not ensure the completeness and accuracy of the Producing Broker's Surplus Lines Affidavit of Due Diligence. Files found with no Producing Broker's Surplus Lines Affidavit of Due Diligence in file are in violation of 3 AAC 25.030(f). The files found with incomplete and inaccurate Producing Broker's Surplus Lines Affidavits of Due Diligence are in violation of 3 AAC 25.030(c). (Page 6)

Finding #6: A policy was issued more than 30 days after the effective date of the coverage or the date coverage was bound, in violation of AS §21.34.100 and 3 AAC 25.060. (Page 7)

Finding #7: On three documented and verified occasions, AKPU altered insurance documents in violation of AS §21.36.360(p)(2). (Page 13)

Recommended Actions

Recommendation # 1: It is hereby recommended that AKPU continue to collect Policy Fees in accordance with AS §21.90.900(34), and according to the agreements made with their carriers. (Page 4)

Recommendation # 2: It is hereby recommended that AKPU include an inventory breakdown of the Policy Fees on any invoices, binders, and/or declaration pages, when AKPU knows the monetary amount of the servicing charges at the time the policy is serviced. (Page 4)

Recommendation # 3: It is recommended that AKPU discontinue the practice of using recycled paper in its active files, and find another means of recycling its used paper, to ensure accordance with 3 AAC 26.610(a)(2). (Page 5)

Recommendation # 4: It is recommended that AKPU create a procedure and training manual to ensure implementation of all mission critical procedures (for operations/training), to ensure compliance with AS §21.27.410. Appropriate implementation of established procedures is essential for consistency in training of agency personnel and agency operations. Appropriate controls, safeguards and procedures for agency operation and training are an indicator of competency of management that the Director may consider in the review of a licensee. A procedure and training manual also serves as a resource tool for employees of the agency. (Page 5)

Recommendation #5: It is recommended that AKPU confirm that the retail agent has a current license at the time of each submission, in accordance with AS §21.27.010(b) as well as accordance with carrier contractual agreements. (Page 6)

Recommendation #6: It is recommended that each file contain documentation that licensing verification has been made, in accordance with AS §21.27.350. The procurement of insurance through unlicensed retail agents would place the carrier in violation of AS §21.09.250, and subject to penalties found in AS §21.09.260. (Page 6)

Recommendation #7: This standard is consistently not met by Alaska Premier Underwriters. It is recommended that procedures and controls should be taken to ensure that the Affidavits of Due Diligence received from the retail agents are complete and accurate, and received prior to the issuance of coverage. (Page 6)

Recommendation #8: It is recommended that AKPU develop and implement procedures and controls to allow for policies to be issued within 30 days as required by AS §21.34.100 and 3 AAC 24.060. (Page 7)

Recommendation #9: It is recommended that AKPU develop and implement standards and procedures to assure that all underwriting materials and documents are received in a timely manner. (Page 8)

Recommendation #10: It is recommended that AKPU cease and desist from altering any insurance documents to prevent any further violations of AS §21.36.360(p)(2) and ensure compliance with Alaska statutes and regulations. (Page 13)

Recommendation #11: It is recommended that AKPU maintain a complaint log and implement procedures that will ensure all complaints received are recorded and given proper response. (Page 13)



DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Insurance

Frank H. Murkowski, Governor

William C. Noll, Commissioner

Linda S. Hall, Director

March 23, 2006

Linda S. Hall, CPCU
Director, Division of Insurance
Department of Commerce and Economic Development
550 West 7th Avenue, Suite 1560
Anchorage, AK, 99501-3567

Dear Director Hall:

Pursuant to Alaska Statute (AS) §21.06.120, AS §21.06.080, AS §21.06.130, AS §21.06.140 and AS §21.06.150, the Alaska Division of Insurance performed a limited market conduct examination in the Anchorage, Alaska office, of Alaska Premier Underwriters (AKPU) on August 29, 2005 through December 28, 2005. The data collection and verification process ended on December 5, 2005. The examination team consisted of Ms. Carol Harbeson, Examiner-in-Charge, Mr. Donald Hale, Market Conduct Examiner, and Ms. Rebecca Nesheim, Revenue Auditor. The examiners are employees of the Alaska Division of Insurance.

Alaska Premier Underwriters (AKPU)

MCE-P-05-05

SCOPE OF EXAMINATION

Purpose and Description

The examination was conducted in accordance with the guidelines and procedures recommended by the National Association of Insurance Commissioners (NAIC) and the rules, regulations and directives of the Alaska Insurance Department.

During the course of the examination, the operations and activities of Alaska Premier Underwriters were reviewed and analyzed to determine their compliance with applicable Alaska statutes, regulations and directives.

By order of Director Linda S. Hall, a targeted Market Conduct Examination of the operations and activities of Alaska Premier Underwriters was conducted to determine compliance with AS §21.27, AS §21.34 and AS §21.36.

Time Frame

On July 28, 2005, Alaska Premier Underwriters (AKPU) was given notification for a market conduct examination to be held on August 15, 2005. AKPU was requested to provide a list of all insureds/clients for the examination period under review and identify those placed through surplus lines insurers. The examination review covered AKPU's business from July 1, 2003 through June 30, 2005. Upon receipt of notification, Alaska Premier Underwriters requested that the commencement date of the examination be postponed due to extenuating circumstances. As a result, the commence date of the exam was amended to August 29, 2005.

Sample

A total of 56 surplus lines placements and 28 admitted placements were examined. Due to the constraints of AKPU's database, the examiners determined that a representative sample of AKPU's placements could be drawn by a systematic sampling of the files from AKPU's file room. The examiners are confident that the determinations made during this examination accurately reflect the operations of AKPU, and that additional file review was not necessary for the purpose of this examination.

COMPANY & PRODUCTION PROFILE

Alaska Premier Underwriters (AKPU) is wholly owned and licensed in Alaska as a managing general agent and surplus lines broker, and holds firm license #32667. The President of Alaska Premier Underwriters is Ms. Lisa Wallis. Ms. Wallis purchased the agency from the previous owner, Peter Huycke, in 2003.

AKPU is a managing general agent, MGA, placing risks in Alaska. AKPU uses both admitted and non-admitted insurers. Approximately forty to fifty percent (40-50%) of the business placed by AKPU are surplus lines placements. AKPU also acts as a broker for a very limited number of placements.

AKPU is a wholesale producer. Insurance applications are received only by licensed retail agents. AKPU first attempts to place the risk with an admitted carrier. If the risk cannot be placed in the admitted market, AKPU will then access one of their surplus lines markets.

Each employee is licensed as an MGA as well as a surplus lines broker, except those employees holding strictly clerical positions. The lines of business placed by AKPU include: general liability, property, inland marine, business auto and garagekeepers, dwelling fire and homeowners. The consumer files are all hard copies, and retained on-site.

METHODOLOGY

During this examination, the examiners conducted interviews with Company staff, reviewed materials, and reviewed files. AKPU uses primarily paper files to store policy records, as well as the OMNI agency management system. The examiners had full and immediate access to all paper policy records. The examiners were provided printouts of accounting records when the need arose.

The examiners provided AKPU with exception reports and verification memos identifying policies and/or issues requiring additional information and/or clarification. AKPU was afforded the opportunity to either agree, dispute, and/or comment on the findings contained in the exception reports and verification memos. The collected data and agency responses support all statements made in this report.

On December 5, 2005, AKPU provided the final document requested in the fieldwork part of the examination. Analysis of the data collected at the exam site and correspondence with AKPU thereafter justified closure of the fieldwork phase of the examination on December 5, 2005.

USE OF POLICY FEES/BROKER'S FEE AGREEMENTS

Per Ms. Lisa Wallis on November 4, 2005,

"Policy Fee's/Expense Constants are used on all of our policies. Policy Fee's/Expense Constants are required by our Carrier's and are allowed by our Carrier's.

I believe the way we are showing our policy fee's is correct. The DOI seems to think otherwise. Effective immediately we will change from calling our Policy Fee's, Policy Fee's and call them Wholesaler Fee's and we will request the acceptance statement from the insured and retail agent.

This also means we will not be filing anymore taxes on these fee's.

There is no way to break this fee down at inception. When we order inspections/mvr's etc... we do not know what the cost is going to be.

We therefore pick a number and use this number on all of our policies.

This is an area that is still very confusing to me and I still don't quite understand."

AKPU is a wholesaler producer. Policy Fees are charged on the declarations page. These Policy Fees are premium as described in AS §21.90.900(34). Taxes and Surplus Lines Fees are paid on these Policy Fees in accordance with AS §21.90.900(34). According to Lisa Wallis, Policy Fees are charged to cover costs of servicing the file (inspection reports, surveys, motor vehicle reports, etc), services with which charges may not be known for months into the policy period. Therefore, there is no inventory breakdown of the Policy Fee noted in file. The Policy Fee is noted on declarations as one lump sum. Taxes/fees are applied to these Policy Fees.

Finding #1:

The Policy Fees collected by AKPU are considered premium as described in AS §21.90.900(34). AKPU is collecting these Policy Fees in accordance with AS §21.90.900(34). Policy Fees are also collected in accordance to agreements made with contracts with the carriers.

Recommendation #1:

It is hereby recommended that AKPU continue to collect Policy Fees in accordance with AS §21.90.900(34), and according to the agreements made with their carriers.

Recommendation #2:

It is hereby recommended that AKPU include an inventory breakdown of the Policy Fees on any invoices, binders, and/or declaration pages, when AKPU knows the monetary amount of the servicing charges at the time the policy is serviced.

CONDITION OF FILES

The files are stored in both hardcopy format and database format. Financial transactions are stored within the OMNI agency management database. All other documentation is stored in hardcopy files located on-site. There is one file for each policy period. A new file is created for each renewal policy. Previously, AKPU kept each file and all renewals for that file in one folder. Due to the size of the file, all renewals are now given their own file. All relevant documents from the expiring policy period are filed in the renewal file. Expired policies are also stored on-site.

AKPU maintains all client information within the file. However, it is noted that AKPU recycles paper containing other clients' information. During the examination, it was at times difficult for the examiner to discern the correct policy information from the information contained on the recycled paper. The following statement was delivered to AKPU on October 11, 2005:

"The examiners have noted and it has been confirmed by Lisa Wallis, that AKPU recycles used paper in their active files. Early on, this confused the examiners as the files appeared to contain duplex prints or copies. If careful attention is not paid, confidential client information may be disclosed in error. To further explain, some of this recycled paper contains confidential client information for an account not related to the file in which it has been placed."

On November 4, 2005, Ms. Lisa Wallis, President delivered this response:

"Okay, you don't want us to recycle paper in our files. We won't do it anymore. We will use the recycled paper as scratch paper instead."

I still think this should be up to me as I own these files and if they are to be copied for anyone this office would be doing the copying and we know about the recycled paper. It's not an issue for us."

This is a huge waste of paper and I'm not happy about it but I will do as you recommend."

Finding #2:

AKPU uses recycled paper, at times containing confidential client information, to service other clients' files.

Recommendation #3:

It is recommended that AKPU discontinue the practice of using recycled paper in its active files, and find another means of recycling its used paper, to ensure accordance with 3 AAC 26.610(a)(2).

PROCEDURES AND EXCEPTIONS – SURPLUS LINES

The following procedures were conducted during this examination. The acceptable error rate for these procedures must be less than 10%.

A. Review Implementation of Procedures/Management Controls

AKPU does not have a procedure manual for training or operations. Additionally, there are no written guidelines for procedure implementation. AKPU relies on a hands-on style of training. AKPU does have a “Policy Set Up For Typing Procedure Form”, “Inspection Report Request Procedure Form”, “Notification of Cancellation/45 Day-Notification Procedure”, and “Work Flow Check Sheet”. However, while these forms (if used) would provide some guidance and consistency, they do not adequately address all of the functions performed by AKPU.

Finding #3:

AKPU does not have a procedure manual for training or operations.

Recommendation #4:

It is recommended that AKPU create a procedure and training manual to ensure implementation of all mission critical procedures (for operations/training), to ensure compliance with AS §21.27.410. Appropriate implementation of established procedures is essential for consistency in training of agency personnel and agency operations. Appropriate controls, safeguards and procedures for agency operation and training are an indicator of competency of management that the Director may consider in the review of a licensee. A procedure and training manual also serves as a resource tool for employees of the agency.

B. Verification the Retail Producer is Currently Licensed

Upon review of the selected files, it appears that AKPU did not routinely verify the licensing status of the retail agent. Although AKPU staff may have an established and familiar relationship with a particular retail agent, it is possible that the retail agent (for various reasons) has not met current licensing requirements when making the submission. AKPU has the technology in place to make a routine check of the licensing status of all retail agents by accessing the Alaska Division of Insurance web site (<http://www.commerce.state.ak.us/insurance/>).

Of the 56 files under review, 9% of the files failed this procedure.

Result: Pass, Needs Improvement

Finding #4:

AKPU does not routinely check the licensing status of the retail agents submitting applications.

Recommendation #5:

It is recommended that AKPU confirm that the retail agent has a current license at the time of each submission, in accordance with AS §21.27.010(b) as well as accordance with carrier contractual agreements.

Recommendation #6:

It is recommended that each file contain documentation that licensing verification has been made, in accordance with AS §21.27.350. The procurement of insurance through unlicensed retail agents would place the carrier in violation of AS §21.09.250, and subject to penalties found in AS §21.09.260.

C. Due Diligence - Affidavit Complete and Accurate

For the surplus lines files reviewed and in effect during any time from July 1, 2003 to July 1, 2004 [for policies in effect prior to the repeal of AS §21.34.080(c), which require notarization of the Producing Broker's Surplus Lines Affidavit of Due Diligence form filed with the Alaska Division of Insurance], the following analysis has been made. For 30 files, the test was not applicable as the policies were written after the change in statute that went into effect 7/1/04 that no longer required the filing of the affidavit with the Division of Insurance. The examiners conducted a test to verify that due diligence was made, and the completeness and accuracy of the Producing Broker's Surplus Lines Affidavit of Due Diligence.

Of the 26 files reviewed, this procedure received a 16% failure rate of occurrence.¹

Finding #5:

AKPU does not consistently verify that due diligence is made, and does not ensure the completeness and accuracy of the Producing Broker's Surplus Lines Affidavit of Due Diligence. Files found with no Producing Broker's Surplus Lines Affidavit of Due Diligence in file are in violation of 3 AAC 25.030 (f). The files found with incomplete and inaccurate Producing Broker's Surplus Lines Affidavits of Due Diligence are in violation of 3 AAC 25.030(c).

Recommendation #7:

This standard is consistently not met by Alaska Premier Underwriters. It is recommended that procedures and controls should be taken to ensure that the Affidavits of Due Diligence received from the retail agents are complete and accurate, and received prior to the issuance of coverage.

¹ Because the examiners were unable to use all 56 files to test this procedure, the results are not to be considered a representative sample, and therefore invalid.

D. Policy is Stamped Per AS §21.34.100(e),(f)

All required disclosures were made in accordance with statutes, rules, and regulations. All declarations pages and renewal certificates were stamped in accordance with Alaska law. **Of 56 files reviewed, this procedure received a 5% failure rate of occurrence.**

Result: Pass

E. Review Declarations Page

All forms and endorsements forming a part of the contract were consistently and accurately listed on the declarations page. **Of 56 files reviewed, this procedure received a 0% failure rate of occurrence.**

Result: Pass

F. Ensure Coverage is Placed with an Eligible Company

The carriers in which coverage was ultimately placed were verified as eligible surplus lines carriers prior to the placement of coverage. **Of 56 files reviewed, this procedure received a 0% failure rate of occurrence.**

Result: Pass

G. Review Timing of Authorization to Bind

Authorization to bind was consistently given prior to issuance of binder to the insureds. **Of 56 files reviewed, this procedure received a 0% failure rate of occurrence.**

Result: Pass

H. Policy Issued > 30 Days After Policy Effective or Bind Date

On one occasion, an application was received with a signature date of 04/01/2004 and a policy effective date of 04/20/2004. The policy was not printed by AKPU until 07/01/2005. However, it appears that all underwriting requests were received by the end of April 2004 yet the contract was not issued within the time period allowed by statute and regulation.

Finding #6:

A policy was issued more than 30 days after the effective date of the coverage or the date coverage was bound, in violation of AS §21.34.100 and 3 AAC 25.060.

Recommendation #8:

It is recommended that AKPU develop and implement procedures and controls to allow for policies to be issued within 30 days as required by AS §21.34.100 and 3 AAC 24.060.

I. Required Application and Underwriting Forms are Missing

One policy was cancelled for non-payment to the premium finance company. The effective date of the policy was 3/08/2004. The completed application forms were initially requested on 03/08/2005 and again on 04/14/2005. No other written requests were found. The effective date of the cancellation was 6/29/2005. Ms. Wallis informed the examiners that the standard operating procedure is to cancel the risk if the forms are not received within 60 days of the effective date. In this case, the policy was allowed to remain effective to the cancellation date of 06/29/2005, which is 111 days past the effective date. The cancellation notice was sent on 6/08/2005, 90 days past the effective date. Failure to provide the required application and underwriting forms is not listed as the reason for cancellation. Ms. Wallis informed the examiners that once the cancellation notice goes out, they normally stop pursuing the application and/or other underwriting forms.

Although this renewal was based on prior policy year information, it is possible that the renewal application might have contained information unacceptable to AKPU. Regardless of the cancellation for non-payment, by not having the application within 60 days, AKPU would not have otherwise been able to cancel the policy for unacceptable information contained on the application.

Recommendation #9:

It is recommended that AKPU develop and implement standards and procedures to assure that all underwriting materials and documents are received in a timely manner.

PROCEDURES AND EXCEPTIONS – ADMITTED BUSINESS

The following procedures were conducted during this examination. The acceptable error rate for these procedures must be less than 10%.

A. Renewal Handling in Accordance with Law

Renewal business was reviewed to determine if AKPU is in accordance with state guidelines. Premium notices and billing notices are sent out with an adequate amount of advance notice. **Of the 28 files reviewed, this procedure received a 0% failure rate of occurrence.**

Result: Pass

B. Premium Notices/Endorsements Processing Sent Timely

Underwriting files were reviewed to determine if premium notices for endorsements were sent timely and not at audit or policy expiration. AKPU consistently met this standard. On one occasion, the bill for the audit was never received by the insured. On Oct 11, 2005, the examiners delivered the following statement to Ms. Wallis for verification and explanation:

“Audit received Oct. 28, 2004. Date stamp whited out. Insured upset that bill for audit was never received. Audit was supposedly sent directly to insured via insurance company (Penn America). Letter

from Penn America is attached which explains this. However, there is no verification that this actually occurred. A copy of the letter sent to the insured from Penn America, which was also rec'd Oct 28, 2004 at AKPU, was whited out. Retail agent contacted AKPU on Nov 24, 2004 to explain the insured's distress and unwillingness to pay because he never rec'd a bill. Agent advised that bill would be sent to collections if insured unwilling to pay. AKPU explained that Penn America mailed the bill for the audit directly on Oct 19, 2004. After this discussion, AKPU sent agent invoice and additional premium endorsement for audit bill. Endorsement typed and sent by AKPU on Nov 29, 2004. Various documents received on Oct 28, 2004 by AKPU from Penn America include: a copy of bill to insured date Oct 19, 2004, and a copy of the audit report generated by US Reports on Oct 19, 2004."

On November 4, 2005, Ms. Wallis submitted this response:

"Procedures have been implemented to pull audits immediately and hand deliver them to the underwriter to process immediately.

I do not know why the date stamp was whited out. We have put procedures in place and have advised personnel that is not to be done. If it is done then an explanation must be attached to the document or the explanation may be written right on the document.

I would like it noted that Penn America does a fantastic job of issuing these Audit bills to the insured with plenty of time to pay. This is the one and only audit where there has ever been an issue of an Insured saying they didn't receive the billing."

Then, on December 5, 2005, Ms. Wallis submitted further clarification:

"The 10/19/04 letter from Penn America to Alaska Premier Underwriters states that Penn America would be mailing a copy of the letter that was sent to us, directly to the insured. We did not receive anything from Penn America as to proof of that mailing as that information would be in their file, not ours. To keep the retail agent informed, Penn America asked us in their letter to forward a copy of the letter to the insured and the audit info to the retail agent.

Penn's letter to us was 6 pages long. Instead of date stamping just the top page, our policy is to date stamp all pages. Only 3 of the 6 pages needed to be forwarded to the retail agent. It appears that the intent of having the date stamp whited out on the 3 pages only, was so that we could present a clean copy of the letter and audit to the retail agent.

As these items were then faxed to the agent, the date faxed would have appeared at the top of the document and the other 3 copies of the packet from Penn did have the date stamp intact. These items were for the retail agent only as the originals were mailed directly to the insured from Penn America.

It is not our policy to white out date stamps. Had our policy been to date stamp the top copy only of the document received, this clerical error would not have even occurred. We have now included, in our policy about date stamping every page, that date stamps should not be whited out in order to provide a clean copy document to the retail agent and have expressed this policy to our staff."

Of the 28 files reviewed, this procedure received a 3% failure rate of occurrence.

Result: Pass, Needs Improvement

C. Cancellation Processing Timely and According to Rules

AKPU handles cancellations in a timely manner without excessive paperwork requirements for the insured. All insured-requested cancellations are processed in a timely manner.

Of the 28 files reviewed, this procedure received a 0% failure rate of occurrence.

Result: Pass

D. Policy/Endorsement Issuance Timely

AKPU issues policies and endorsements in a timely manner.
Of the 28 files reviewed, this procedure received a 7% failure rate of occurrence.

Result: Pass, Needs Improvement

E. Appropriate Response to Correspondence

AKPU directs correspondence to appropriate personnel, and responds in a timely manner.
Of the 28 files reviewed, this procedure received a 3% failure rate of occurrence.

Result: Pass, Needs Improvement

F. Timely and Accurate Quotation

AKPU consistently delivered timely and accurate quotations.
Of the 28 files reviewed, this procedure received a 0% failure rate of occurrence.

Result: Pass

G. Timely Disclosure of Coverage Changes

Disclosure to insureds concerning rates and coverage should be accurate and timely. In three of the 28 files reviewed, AKPU failed to meet this procedure.

Result: Fail

H. Policy Forms Listed on Declarations

AKPU consistently lists all forms and endorsements that form part of the contract on the declarations page.
Of the 28 files reviewed, this procedure received a 0% failure rate of occurrence.

Result: Pass

I. Application Signed and Complete; Including Electronic Signatures

AKPU consistently meets this standard. However, in one file reviewed, the examiner received an application in which the insured's original signature was whited out and signed over. When asked for an explanation as to why this application was accepted, Ms. Wallis delivered this response:

"Application was received with a whited-out signature. No initialing to changes done on application. This application is fine, the reason you are questioning it makes sense to me but it is okay. Here's what transpired.

All the retail agent did was photocopy the prior year's application and she whited out the Prior Carrier information in order to provide the updated information we would require for the quote. She then had the

insured sign this application as this was the new application. There were no changes to the application other than to update the prior carrier information.

I do admit this is probably not the best way to have handled this. If she wanted to cut corners she should have whited out what she did and then photocopy the app then have the insured sign the application. That way everything would have been in the same color other than the insured's signature. This app is acceptable to the Company."

Of the 28 files reviewed, this procedure received a 3% failure rate of occurrence.

Result: Pass

J. Underwriting File Contains Complete Exposure Information

AKPU maintains all necessary exposure information in their underwriting files. The file documentation adequately supports the underwriting decisions made.

Of the 28 files reviewed, this procedure received a 0% failure rate of occurrence.

Result: Pass

K. Timing Policy Issuance

AKPU consistently issues coverage in a timely manner once the application is received.

Of the 28 files reviewed, this procedure received a 0% failure rate of occurrence.

Result: Pass

DOCUMENT ALTERATION

There are three documented cases in which Alaska Premier Underwriters altered documents. This is in direct violation of AS §21.36.360(p)(1) and (2), which state:

**"Fraudulent or criminal insurance acts. (p) A fraudulent insurance act is committed by a person who
(1) violates a provision of this title or a regulation issued under it;
(2) falsely makes, completes, or alters a certificate of insurance or other document relating to insurance;"**

The following is the memorandum which was delivered to AKPU on November 29, 2005, as well as the responses (in quotation marks) given by Ms. Wallis on December 5, 2005.

Nonrenewal notice was typed and signed by Lisa Wallis on April 23, 2003. The date of April 24, 2003 is crossed out on the notice, and the 23rd is written instead. The Post Office stamped the Certificate of Mailing as April 24, 2003. No other Certificate of Mailing page is in file.

1. *Was the date of mailing of this nonrenewal notice altered by Alaska Premier Underwriters?*

Yes "A clerical error – yes"

No "Intentionally – No, I do not believe this to be the case."

- 1) *"In reviewing this file, this appears to be a clerical error as to what day it was, not what day the notice went to the post office. The cancellation clerk who processed the notice no longer works for our company, however, we do know that when notices are typed, they are signed at the same time that they are printed, so I do not believe the pen marks through the four had anything to do with when it went to the post office. Since there are two dates at the top of the cancellation form, one with 24th as a date and one with the 23rd my best estimation of what happened is that in signing the form and trying to think what day it was, she looked at the top of the form*

and instead of looking at the date of mailing, she looked at the cancel date and accidentally wrote the 24th. When she realized she wrote the wrong date, it appears she attempted to correct it instead of reprinting and correcting it.

Also my signature stamp, which is used to sign policies, was used on the notice as well.

Our office procedure is that we take notices to the post office the same day they are typed, a copy of the post office proof of mailing is put in each file and the notice is signed by the person taking them to the post office. Although it was mailed the next day, adequate notice time was given to the insured.

Additionally, it appears that our computer program for issuing the cancellation notices allows us to have the form with or without the certification portion at the bottom of the form. I'm sure this is due to the fact that some companies may get the post office to do the certification on the cancellation form itself. However, that is not our procedure. We have the post office certify the notices in our cancellation log which we then make a copy of and place the post office certification in the file.

Since it is the cancellation log book which serves as our proof of mailing, the wording at the bottom of our cancellation form is not needed and we will now be printing our cancellation forms with a signature line only in that spot."

Nonrenewal notice was typed and signed by Lisa Wallis on April 26, 2004. The Post Office stamped the Certificate of Mailing as April 29, 2004. No other Certificate of Mailing page is in file.

2. *Was the date of mailing written and signed by Alaska Premier Underwriters of this nonrenewal notice different than the actual date in which the notice was received by the U.S. Post Office?*

Yes
 No

- 2) *"Notice of cancellation was typed 4/26/04 and taken to the post office on 4/29/04. Again, the clerk who processed this notice no longer works for our company so we are not sure why the delay occurred as that was not our policy. Despite the delay, adequate notice time was given to the insured."*

Policy handled by Lisa Wallis/Deitta Ernst-Integrity. Audit received Oct 28, 2004. Date stamp whited out. Insured upset that bill for audit was never received. Audit was supposedly sent directly to insured via insurance company (Penn America). Letter from Penn America is attached which explains this. However, there is no verification that this actually occurred. A copy of the letter sent to the insured from Penn America, which was also rec'd Oct 28, 2004 at AKPU, was whited out. Retail agent contacted AKPU on Nov 24, 2004 to explain the insured's distress and unwillingness to pay because he never rec'd a bill. Agent advised that bill would be sent to collections if insured unwilling to pay. AKPU explained that Penn America mailed the bill for the audit directly on Oct 19, 2004. After this discussion, AKPU sent agent invoice and additional premium endorsement for audit bill. Endorsement typed and sent by AKPU on Nov 29, 2004. Various documents received on Oct 28, 2004 by AKPU from Penn America include: a copy of bill to insured date Oct 19, 2004, and a copy of the audit report generated by US Reports on Oct 19, 2004.

3. *Was the date stamp on the documents received by Alaska Premier Underwriters whited out by Alaska Premier Underwriters?*

Yes "on 3 of the pages received."
 No "Not on all documents with that receipt date."

- 3) *"The 10/19/04 letter from Penn America to Alaska Premier Underwriters states that Penn America would be mailing a copy of the letter that was sent to us, directly to the insured. We did not receive anything from Penn America as to proof of that mailing as that information would be in their file, not ours. To keep the retail agent informed, Penn America asked us in their letter to forward a copy of the letter to the insured and the audit info to the retail agent.*

Penn's letter to us was 6 pages long. Instead of date stamping just the top page, our policy is to date stamp all pages. Only 3 of the 6 pages needed to be forwarded to the retail agent. It appears that the intent of having the date stamp whited out on the 3 pages only, was so that we could present a clean copy of the letter and audit to the retail agent.

As these items were then faxed to the agent, the date faxed would have appeared at the top of the document and the other 3 copies of the packet from Penn did have the date stamp intact. These items were for the retail agent only as the originals were mailed directly to the insured from Penn America.

It is not our policy to white out date stamps. Had our policy been to date stamp the top copy only of the document received, this clerical error would not have even occurred. We have now included, in our policy about date stamping every page, that date stamps should not be whited out in order to provide a clean copy document to the retail agent and have expressed this policy to our staff."

Finding #7:

On three documented and verified occasions, AKPU altered insurance documents in violation of AS §21.36.360(p)(2).

Recommendation #10:

It is recommended that AKPU cease and desist from altering any insurance documents to prevent any further violations of AS §21.36.360(p)(2) and ensure compliance with Alaska statutes and regulations.

REVIEW RECORDING OF COMPLAINTS AND RELATED INFORMATION

Lisa Wallis informed the examiners that AKPU does not have a complaint log. However, she did say that when a complaint is received, that details were noted and placed in the related file. She informed the examiners that AKPU had received two complaints filed with the division. No complaints have been made directly with AKPU. The examiners explained that AKPU should maintain a complaint log and Ms. Wallis indicated that she would direct her staff to do this.

Recommendation #11:

It is recommended that AKPU maintain a complaint log and implement procedures that will ensure all complaints received are recorded and given proper response.

DISASTER PROGRAM

The following was submitted by Jack Wallis on September 15, 2005. He serves as AKPU's information technician.

Architecture: AKPU provides a Windows Domain network utilizing 2 Domain Controller Servers and 6 Windows XP Pro workstations over a 1000/100/10 wired Cat 6 network with a Linksys Firewall router and broadband access. The first Server operates on Windows 2000 server software and handles all the File management and Data storage. This server utilizes a RAID 5 configuration with 3 drives. The second server operates on Windows Small Business Server 2003 and is the Firewall and application server. This server utilizes a Mirrored or RAID 1 configuration. This server provides all the software and windows updates for all the workstations. Both servers contain the Domain security structure and perform file replication between the two.

Security: Our Domain uses a windows 2003 security structure utilizing long names and passwords that have to be changed on a schedule. User privileges are kept to a minimum necessary to do day to day tasks. Original software disks and Backup disks are kept offsite. We use Norton corporate Antivirus and due daily updates of the definitions.

Backup Strategy: The file server performs a full backup every evening to an external firewire drive, using Veritas Backup software. These Backups are password protected. I now have two of these drives that will be rotated everyday to an offsite location, in case of catastrophic disaster to the building. I can monitor these backups from my offsite location. Since the files server is on a RAID 5 configuration, drive failures are easy handled by inserting a standby drive and letting the server auto restore this drive. All of the workstations point their My Documents and email to the file server to be included with the backup. Only the program software is stored on the workstations. I have a clone CD set to restore any of the workstations. I am going to setup an

offsite FTP backup strategy that will due continuous file backups over the internet to a secure FTP server. That will allow for up to the minute backups. Our Current backup strategy allows for prior day recovery.”

COOPERATION

The examiners made repeated and exhaustive efforts to obtain responses from Alaska Premier Underwriters during the examination. These efforts continued until all necessary documentation was provided. The examination team wishes to express their appreciation for the courtesy extended by Alaska Premier Underwriters’ personnel, especially Ms. Lisa Wallis, who ultimately provided the examiners with all necessary documentation; thus, enabling the examiners to perform a thorough review of the data. However, because of the untimeliness of the responses provided by Alaska Premier Underwriters, the examiners were forced to lengthen the fieldwork time.

RE-EXAMINATION

Presently, Alaska Premier Underwriters is implementing recommendations as discussed in this report. Historically, Alaska Premier Underwriters has failed to respond to various requests from the Alaska Division of Insurance in a timely manner. Various procedures have been implemented to address problem areas contributing to their failures to respond. Therefore, the examiners recommend revisiting Alaska Premier Underwriters after the establishment of these procedures is complete to evaluate the effectiveness of the implementations. At that time, a more in-depth examination can be made.

Submitted by:



Carol S. Harbeson, CPCU, CIC
Examiner-in-Charge

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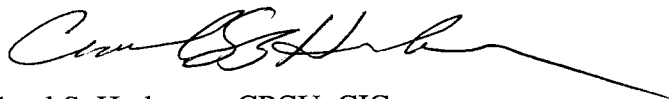
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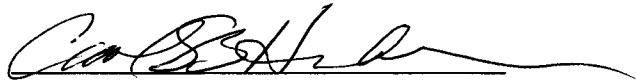


Carol S. Harbeson, CPCU, CIC
Examiner-in-Charge


REPORT ON MARKET CONDUCT EXAMINATION CERTIFICATION

State of Alaska)
) ss.
Third Judicial District)

Carol S. Harbeson, being duly sworn, deposes and says that the foregoing report submitted by her is true to the best of his knowledge and belief.


Carol S. Harbeson
Examiner-in-Charge

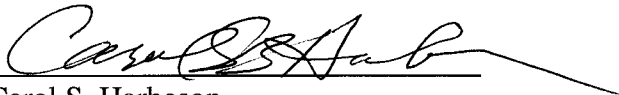
SUBSCRIBED and SWORN to before me this 03 day of January, 2006.


Notary Public in and for Alaska
My Commission Expires 1/5/09

REPORT ON MARKET CONDUCT EXAMINATION CERTIFICATION


State of Alaska)
) ss.
Third Judicial District)

Carol S. Harbeson, being duly sworn, deposes and says that the foregoing report submitted by her is true to the best of his knowledge and belief.



Carol S. Harbeson
Examiner-in-Charge

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