

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 12-03)
In the Matter of Audit of)
AmWINS Insurance Brokerage of CA LLC)

)

FINDINGS OF FACT

1. An audit report of AmWINS Insurance Brokerage of CA LLC, licensed in the State of Alaska, has been issued by the State of Alaska, Division of Insurance to AmWINS Insurance Brokerage of CA LLC.
2. The audit report of AmWINS Insurance Brokerage of CA LLC (TA 12-03) has been transmitted to George S. Maggay, Compliance Officer, AmWINS Insurance Brokerage of CA LLC (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 he 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 he 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 AmWINS Insurance Brokerage of CA LLC (TA 12-03) 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 July 6, 2012.

Dated this 6th day of July, 2012 at Anchorage, Alaska.

Bret S. Kolb

Bret S. Kolb, Director
State of Alaska
Division of Insurance

PREMIUM TAX AUDIT OF

AmWINS Insurance Brokerage of CA LLC

Chatsworth, CA

License #20343

TA 12-03

As of December 31, 2011

Issued by

DIVISION OF INSURANCE

DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC

DEVELOPMENT

STATE OF ALASKA



FINAL REPORT:

July 6, 2012

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DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Insurance

Sean Parnell, Governor
Susan K. Bell, Commissioner
Bret S. Kolb, Director

July 6, 2012

Bret S. Kolb
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 AmWINS Insurance Brokerage of CA LLC (the broker) on March 12, 2012 through March 16, 2012, in the broker's Chatsworth, CA office. The audit was conducted by Rebecca Nesheim, tax auditor for the Alaska Division of Insurance.

AmWINS Insurance Brokerage of CA LLC

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 second premium tax audit of AmWINS Insurance Brokerage of CA LLC conducted by the Alaska Division of Insurance. The first premium tax audit was completed June 25, 2009.

Subject Matters Audited

AmWINS Insurance Brokerage of CA LLC is an Alaska licensed surplus lines broker based in Chatsworth, CA. The Division included in the current audit a review of the statutory compliance with monthly filings, premium tax and filing fees payments, of accuracy and timeliness as well as required due diligence and disclosures and notifications to the insured.

Time Frame

The audit covered this broker's surplus lines business for the year January 1, 2010 through December 31, 2011.

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METHODOLOGY

The tax auditor sent the call letter and initial data requests to the broker's office in Chatsworth, 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 and endorsements written during the audit period was 174, from which a sample of 50 files was selected for audit.

The following are the procedures steps for the audit:

- 1) Verify that monthly premium reports, quarterly reports, and accompanying forms were filed on time.
 - i) Audit steps taken:
 - (1) Reviewed the monthly and quarterly files sent to the Alaska Division of Insurance and verified the reports were filed by the due date.
- 2) Verify the accuracy of the premium calculation
 - i) Audit steps taken:
 - (1) Reviewed policy, declaration page, 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 all monthly and quarterly reports filed.
 - i) Audit steps taken:
 - (1) Reviewed the policy, declaration, and endorsement pages in each file.
 - (2) If the effective date did not match the monthly or 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 effective date may be a month or more prior to the actual book date or invoice date. In this case, the invoice date determines in which month or quarter the endorsement is required to be filed.
 - (3) Verified the monthly and 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 monthly or quarterly filing based upon the effective date of the policy.
- 4) If the placement is a multi-state placement, check the calculation and reasonableness of the methodology used to allocate.
 - i) Audit steps taken:
 - (1) Verified the allocation of premium for each state is reasonable and the calculation is accurate.
 - (2) Verified the multi-state allocation form was filed when appropriate
- 5) Verify quarterly tax and annual premium tax reports were filed on time.
 - i) Audit steps taken:
 - (1) Confirmed when the quarterly tax and annual premium tax reports were sent to the Alaska Division of Insurance.
- 6) Verify the accuracy of the quarterly tax and annual premium tax reports
 - i) Audit steps taken:

- (1) Verified the quarterly tax and annual premium tax reports as filed with the division were accurately filled out to reflect the correct premiums, taxes and fees.
- 7) 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
- 8) Verify tax and filing fees payments were made accurately
 - i) Audit steps taken:
 - (1) Confirmed if the tax and fee payments matched the tax reports as filed.
- 9) 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
- 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 white lists 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 in each file there was an Alaska Policyholder Notice regarding nonrenewal and premium increase included with the policy or other evidence of insurance.

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 monthly premium reports, quarterly reports and accompanying forms were filed on time

AS 21.34.080 and .170, 3 AAC 25.090 and .100

Comments: Twenty-three original monthly premium reports were filed on time and two new Quarterly Reports effective third quarter 2011 were filed on time.

Results: Passed (error rate 0%)

2. Verify the accuracy of the premium calculation

AS 21.34.180

Comments: The premium was calculated correctly on all policies and endorsements. There were a few minor changes to premium on the report of surplus lines transaction forms filed with the Division prior to audit.

Results: Passed (error rate 0%)

3. Verify the accuracy of all monthly and quarterly reports filed

AS 21.34.080 and .170, 3 AAC 25.090 and .100

Comments: One policy was not filed in the original monthly report but amended at a later time.

As this policy was not subject to taxes and fees, there is no cascading affect with respect to the accuracy of other procedure tests.

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

Recommendations: It is recommended the broker ensure their written procedures are followed for when to file transactions. A second individual reviewing documents before submission could reduce the number of errors received by the Division.

AmWINS Insurance Brokerage of California, LLC response: A secondary review of filings to be made has been implemented to ensure all filings are included in the appropriate filing period.

4. Verify the multi-state placements are filed correctly

AS 21.34.180

Comments: The broker writes several multi-state policies. Nineteen policies for entities that were exempt from taxes and fees were part of a multi-state program with separate declarations for each entity. One policy was filed 100% as Alaska risk yet there are locations in WA, MN, TX & Canada. As this policy is still active, the monthly report should be amended to reflect just the Alaska portion of the risk and file the remainder with the appropriate states, in order to be in compliance with Alaska laws. A refund will be returned to the broker after receiving the amended report.

Four additional audit tests are affected:

1. Accuracy of Premium
2. Accuracy of Monthly Reports
3. Accuracy of Tax Reports
4. Accuracy of Tax and Fee Payments

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

Recommendations: Alaska law changed effective 7/21/2011 and will no longer require multi-state policies to be allocated among other states when the home state of the insured is Alaska. It is recommended that the broker make the required amendments to reports to be back in compliance.

AmWINS Insurance Brokerage of California, LLC response: A corrected filing for the multi-state risk with locations outside of Alaska is being prepared.

Alaska Division of Insurance response: A corrected filing was received on July 6, 2012, which includes a credit of tax and fees due back to the broker. The broker is back in compliance regarding this issue.

5. Verify quarterly tax and annual premium tax reports were filed on time
AS 21.34.180, 3 AAC 21.550 and .560

Comments: The broker filed all quarterly tax and annual tax reports on time.

Results: Passed (error rate 0%)

6. Verify the accuracy of the quarterly tax and annual premium tax reports
AS 21.34.180, 3 AAC 21.550 and .560

Comments: The error found during the audit in the multi-state premium affects the accuracy of the annual tax reports. This flow-through finding is addressed in its respective audit test.

Results: Passed (error rate 0%)

7. Verify if tax and filing fee payments were made on time and by ACH
AS 21.34.180, 3 AAC 21.550 - .570

Comments: All payments were made on or before the required due date and made by ACH.

Results: Passed (error rate 0%)

8. 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 tax reports as filed. The errors found during the audit in the multi-state premium affects the accuracy of the tax and fee payments. This flow-through finding is addressed in its respective audit test.

Results: Passed (error rate 0%)

9. Review effort made to place insured with an admitted insurer

AS 21.34.020, 3 AAC 25.035

Comments: The broker has elected to use the Affidavit of Due Diligence for documenting the diligent search although some files contained other types of documentation that is acceptable.

The following problems with documentation were noted in the files:

- No documentation in file – 2
- Documentation received after binding – 11. Two of these files included emails from the broker's staff to the retailer to backdate the Affidavit to the date of the bind request.

Results: Failed (37 files passed & 13 failed, error rate 26%)

Recommendations: It is recommended that the broker create written procedures to ensure all documentation is received prior to binding including those with risks located on the placement list as required by Alaska law. If another form of documentation is maintained, there must be clear indications that the declinations were done before binding or an accurate description of how the risk is qualified on the placement list.

AmWINS Insurance Brokerage of California, LLC response: Written procedures have been put in place and circulated regarding completion of the Affidavit of Due Diligence, or similar documentation, prior to binding for maintaining in the policy file.

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

AS 21.34.100(e)

Comments: Four files demonstrated a problem with the required disclosure stamp on the evidence of insurance. Here are the different problems found in the files:

- No stamp on binder – 3
- Stamp partially illegible on dec – 1

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

Recommendations: It is recommended that the broker ensure written procedures are followed that all evidence of insurance have the required disclosure stamp wording and is legible. The stamp should be located on the first page of the evidence so the insured will not miss it.

AmWINS Insurance Brokerage of California, LLC response: Written procedures have been put in place and circulated regarding this procedure. The production system used to issue binders will automatically include this verbiage for the states selected for each policy.

11. Review notification for use of non-admitted insurer

AS 21.34.110

Comments: Forty-seven policy files did not include the notification. Two files included the notification as the MGA included it in their quote to the broker who passed it on to the insured.

One file included the notification from the broker's Seattle office so the office was compliant at one point. When this notification is not provided to the insured, the premium charged is not due and payable.

There is a section on the Coverage Quotation for "Surplus Lines Disclosure." If this was changed to the appropriate information in AS 21.34.110, it will meet Alaska requirements. The language used now is the disclosure stamp required on evidence of insurance.

Results: Failed (3 files passed & 47 failed, error rate 94%)

Recommendations: It is recommended that the broker revise their written procedures to include the Alaska notification language in the quotation to the insured describing the surplus lines insurance company as required by statute. The information should include the three points: the company does not have a certificate of authority, they are not regulated by the Alaska Division of Insurance and in the event of insolvency losses will not be covered by the Alaska Insurance Guaranty Association Act. If the broker decides to not use the quotation, as long as the broker creates another method of informing the insured and maintaining that documentation in the files, the statute requirements will be satisfied.

AmWINS Insurance Brokerage of California, LLC response: The production system used to issue quotations is now programmed to include this language on the quotation for Alaskan policies.

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: Eleven files did not have evidence of the required Alaska Policyholder Notice of nonrenewal and premium increase included in the policy, binder, or cover note. Two files included the notice but it was an older version than required.

Results: Failed (37 files passed & 13 failed, error rate 26%)

Recommendations: It is recommended that the broker revise their written procedures to include a step in the processing of the policy, binder, and cover note to ensure the notice is included from the insurance company. If the notice is outdated or missing, the broker should contact the insurance company to replace the notice. A step on a checklist is one way to ensure this document is reviewed.

AmWINS Insurance Brokerage of California, LLC response: Written procedures have been updated to include this step in the binding process.

SUMMARY AND SUBSEQUENT EVENTS

Summary

This was a premium tax audit of AmWINS Insurance Brokerage of CA LLC. The auditor tested 13 standards focusing on the broker's filing of monthly and quarterly report and the quarterly tax and annual tax reports and the subsequent payments of premium taxes and filing fees as well as the diligent search, disclosure stamp, and notification requirements for using a non-admitted insurer.

The compliance officer and staff were cooperative during the audit. The tax auditor appreciated this attitude and enjoyed working with the broker's management and staff.

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

- 1) The diligent search in the admitted market was not documented in many of the files.
- 2) The disclosure stamps continue to be missing from some evidence of insurance.
- 3) The required notification to the insured regarding the use of a nonadmitted insurer was not found in most files.
- 4) The Alaska Policyholder Notice continues to be missing from several files.

Re-Audit

In closing, the auditor's recommended actions should help the broker correct the problems encountered. It is recommended that AmWINS Insurance Brokerage of CA LLC be re-audited within the next three years to ascertain compliance.

Submitted by:
Rebecca Nesheim
Tax Auditor

Affidavit

AmWINS Insurance Brokerage of CA LLC
As of December 31, 2011
TA 12-03

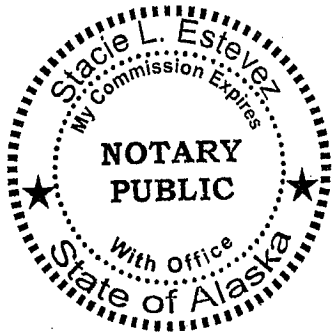
Juneau, Alaska)
July 6, 2012)
State of Alaska) ss.
First Judicial District)

I, being duly sworn, do verify that the report of premium tax audit as of December 31, 2011 of AmWINS Insurance Brokerage of CA LLC is true to the best of my knowledge and belief.

Rebecca Nesheim

Rebecca Nesheim
Tax Auditor

SUBSCRIBED and SWORN to before me this 11th day of July, 2012



Stacie Estevez
Notary Public in and for Alaska

My Commission Expires with office