

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 12-04)
In the Matter of Audit of)
Poulton Associates Inc)
_____)

FINDINGS OF FACT

1. An audit report of Poulton Associates Inc, licensed in the State of Alaska, has been issued by the State of Alaska, Division of Insurance to Poulton Associates Inc.
2. The audit report of Poulton Associates Inc (TA 12-04) has been transmitted to Craig K. Poulton, Compliance Officer, Poulton Associates 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 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 Poulton Associates Inc (TA 12-04) is approved as filed.

2. Pursuant to AS 21.06.060, the audit report shall be kept in the office of the director of the Division of Insurance and be open to public inspection.

This order is effective October 19, 2012.

Dated this 19th day of October, 2012 at Anchorage, Alaska.



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

PREMIUM TAX AUDIT OF

**Poulton Associates Inc
Salt Lake City, UT
Alaska License #9713**

TA 12-04

As of December 31, 2011

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



**FINAL REPORT:
October 19, 2012**

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THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Commerce, Community,
and Economic Development

DIVISION OF INSURANCE

P.O. Box 110805
Juneau, Alaska 99811-0805
Main: 907.465.2515
TDD: 907.465.5437
Fax: 907.465.3422

October 19, 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 Poulton Associates Inc (the broker) on June 18, 2012 through June 19, 2012, in the broker's Salt Lake City, UT office. The audit was conducted by Rebecca Nesheim, tax auditor for the Alaska Division of Insurance.

Poulton Associates 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 first premium tax audit of Poulton Associates Inc conducted by the Alaska Division of Insurance.

Subject Matters Audited

Poulton Associates Inc is an Alaska licensed surplus lines broker based in Salt Lake City, UT. The Division elected to audit their monthly and quarterly filings, premium taxes and filing fees paid, for accuracy and timeliness as well as required diligent search, disclosures, and notifications to the insured.

Time Frame

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

METHODOLOGY

The tax auditor sent the call letter and initial data requests to the broker's office in Salt Lake City, UT. 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 539, from which a sample of 50 files was selected for audit. During the audit, it was determined that two of the files selected to audit were actually flat cancelled; therefore, two additional policy files were randomly selected to replace those two.

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 or quarterly 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/quarterly premium reports and accompanying forms were filed on time
AS 21.34.080 and .170, 3 AAC 25.090 and .100

Comments: All but two monthly premium reports and accompanying forms were filed on time. The August & September 2011 monthly reports were filed late due to a misunderstanding of the new law effective 7/21/11 and the transition documentation as requested by the division. No finding will result from this misunderstanding.

Results: Passed (error rate 0%)

Broker Response: Broker agrees with these findings.

2. Verify the accuracy of the premium calculation

AS 21.34.180

Comments: The premium for all policy files did not include a policy fee on the dec page when calculating premium tax and filing fees. The broker is under contract with the insurance company to process policies on their behalf so it is reasonable to consider these fees as company policy fees and subject to tax and filing fee. Amended monthly reports and annual tax report generally would be required to adjust for the missing fees with additional tax and fees due. However, due to the magnitude of additional work for the Division for the nominal amount of taxes and fees collected for all 529 policies during the two year audit period affected, the Division has determined to let the transactions stand as filed. Extra scrutiny will be placed on this issue going forward.

This error affects three additional audit tests:

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

Results: Failed (error rate 100%)

Recommendations: It is recommended the broker create written procedures and make programming changes to ensure all company fees are included in the calculation of premium tax and filing fees. The broker should read bulletin 04-14 to reinforce their understanding of what fees are to be included in premium and what are not. This change needs to be made immediately.

Broker Response: We have updated our code and database to reflect the policy fee to be included in the gross premium figure used to calculate the taxes and fees due to the State of Alaska as per AS 21.34.180.

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

Comments: All monthly/quarterly reports were accurate as filed other than the premium calculation. This flow-through finding is addressed in its own audit test.

Results: Passed (error rate 0%)

Broker Response: Broker agrees with these findings.

4. Verify the multi-state placements are filed correctly
AS 21.34.180

Comments: The broker does not write multi-state policies. All properties in a given state are required to have its own policy and sometimes per property so there are no multi-state policies.

Results: N/A

Broker Response: Broker agrees with these findings.

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

Comments: The broker was not required to file quarterly tax reports for the audit years although during 2011, they chose to do so for the first two quarters. The two annual premium tax reports were filed on time.

Results: Passed (error rate 0%)

Broker Response: Broker agrees with these findings.

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

Comments: The broker was not required to file quarterly tax reports for the audit years although during 2011, they chose to do so for the first two quarters. The error found during the audit in the premium calculation affects the accuracy of the annual tax reports. This flow-through finding is addressed in its own audit test.

Results: Passed (error rate 0%)

Broker Response: Broker agrees with these findings.

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: Although the broker was not required to pay quarterly tax and fees during either year, they chose to make quarterly payments of both tax and fees during 2011 for the first two quarters. All payments were made on or before the required due date for the annual payments and made by ACH.

Results: Passed (error rate 0%)

Broker Response: Broker agrees with these findings.

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

Results: Passed (error rate 0%)

Broker Response: Broker agrees with these findings.

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

AS 21.34.020, 3 AAC 25.010 and .035

Comments: The broker does not capture any documentation in the insured's files to show a diligent search was completed. They do maintain the placement lists for each year and have them available for all staff working on the policies. The producers initiate a new or renewal policy request on an on-line application created by the broker. When completed, the information flows directly into the broker's database. The automated process does not include the diligent search documentation.

Results: Failed (error rate 100%)

Recommendations: It is recommended that the broker create written procedures to ensure all diligent search efforts are received prior to binding including those with risks located on the placement list as required by Alaska law. 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. As the broker's process is automated, it is recommended that there be added to the on-line process the ability for the producer to document their diligent search efforts that will then be captured in the insured's electronic file.

Broker Response: We will create computer code that will require the producer users of our system to affirm that “The insurance coverage requested is found on the Alaska Division of Insurance Surplus Lines Placement List.” Our system will memorialize the affirmation and the user identification credentials as well as the date and time the affirmation is made.

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

AS 21.34.100(e)

Comments: All dec pages have the required stamp. The broker does not issue binders, the process goes directly from the quote to dec. When an endorsement is processed, a new dec page is created with “Endorsement” at the top and each of these have the required stamp.

Results: Passed (error rate 0%)

Broker Response: Broker agrees with these findings.

11. Review notification for use of non-admitted insurer

AS 21.34.110

Comments: The broker currently does not provide the notification to the insured that the insurance is being placed with a company that is not regulated by the Alaska Division of Insurance so all files failed this test.

Results: Failed (error rate 100%)

Recommendations: It is recommended that the broker create written procedures to include the notification to the insured describing the surplus lines insurance company as required by statute. The information should include the three points of the notification: 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. As the broker’s process is automated, it is recommended that the notification be added to the on-line quote that will then be captured in the insured’s electronic file.

Broker Response: We will be adding this information to our cover letter when sending out all renewal notifications, as well as to all original applications prior to binding.

12. Confirm coverage is placed with an eligible non-admitted insurer

AS 21.34.050

Comments: All policies in the audit were placed with an eligible surplus lines company.

Results: Passed (error rate 0%)

Broker Response: Broker agrees with these findings.

13. Review notice regarding nonrenewal and premium increase

3 AAC 25.050

Comments: All files included the required Alaska Policyholder Notice of nonrenewal and premium increase being sent to the insured. In 2010, the notice was printed on the dec page and starting 11/10, the notice was printed in the terms & conditions that is provided to the insured for each original and renewal policy.

Results: Passed (error rate 0%)

Broker Response: Broker agrees with these findings.

SUMMARY AND SUBSEQUENT EVENTS

Summary

This was a premium tax audit of Poulton Associates Inc. The auditor tested 13 standards focusing on the broker's filing of monthly/quarterly and annual tax reports and the subsequent payment of premium taxes and filing fees as well as diligent search, disclosures, and notification requirements for using a non-admitted insurer.

The compliance officer, owners and staff were cooperative during the audit. The tax auditor appreciated this attitude and enjoyed working with Poulton Associates Inc'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 premium calculation for every file was inaccurate as the policy fee was not included in the calculation of taxes and filing fee.
- 2) The diligent search in the admitted market was not documented in any file
- 3) The required notification to the insured regarding the use of a nonadmitted insurer was not found in any file

Re-Audit

In closing, the auditor's recommended actions should help the broker correct the problems encountered. It is recommended that Poulton Associates Inc be re-audited within the next three years to ascertain compliance.

Submitted by:
Rebecca Nesheim
Tax Auditor

Affidavit

Poulton Associates Inc
As of December 31, 2011
TA 12-04

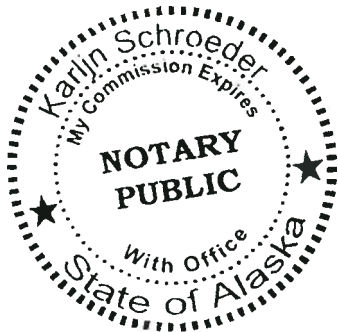
Juneau, Alaska)
October 19, 2012)
State of Alaska) ss.
First Judicial District)

I, being duly sworn, do verify that the report of premium tax audit as of December 31, 2011 of Poulton Associates Inc is true to the best of my knowledge and belief.

Rebecca Nesheim

Rebecca Nesheim
Tax Auditor

SUBSCRIBED and SWORN to before me this 29th day of October, 2012



Karlin Schroeder

Notary Public in and for Alaska

My Commission Expires With office