

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 15-05 )  
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 15-05) 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 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

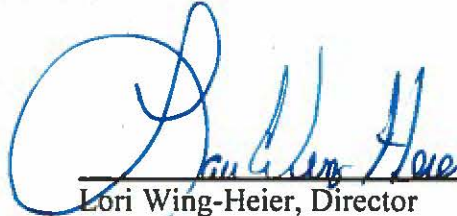
IT IS ORDERED

1. Pursuant to AS 21.06.150(b)(1), the audit report of AmWINS Insurance Brokerage of CA LLC (TA 15-05) 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 April 11, 2016.

Dated this 11<sup>th</sup> day of April, 2016 at Juneau, Alaska.



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

**PREMIUM TAX AUDIT OF**

**AmWINS Insurance Brokerage of CA LLC**

**Woodland Hills, CA  
Alaska License #20343**

**TA 15-05**

**As of June 30, 2015**

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



**FINAL REPORT:  
April 11, 2016**

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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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April 11, 2016

Lori K Wing-Heier, CIC, CRM  
Director, Division of Insurance  
Department of Commerce, Community and Economic Development  
550 West 7<sup>th</sup> 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 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 third premium tax audit of AmWINS Insurance Brokerage of CA LLC conducted by the Alaska Division of Insurance (the division).

**Subject Matters Audited**

AmWINS Insurance Brokerage of CA LLC (the broker) is an Alaska licensed surplus lines broker based in Woodland Hills, California. The division elected to audit their quarterly filings, premium taxes and filing fees paid for accuracy and timeliness as well as required diligent search efforts, disclosures, notifications, and prompt delivery of material facts in evidence of insurance to the insured.

**Time Frame**

The audit covered this broker's surplus lines business for the years July 1, 2013 through June 30, 2015.

## **METHODOLOGY**

The division sent the call letter and initial data requests to the broker's office in Woodland Hills, California. 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 294, from which a sample of 50 files was selected for audit.

### **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 insured name, insurance company, and policy type codes were accurate on the forms filed.
    - (7) Verified the locations of risk were identified on the reports
- 4) Confirm Alaska is the home state of the insured.
  - i) Audit steps taken:
    - (1) Verified where the principal place of business or residence of the insured is located.
    - (2) Verified at least partial risk is located in Alaska or the highest % of premium in Alaska if headquarters not in Alaska
- 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
    - (2) For effective dates beginning 9/4/14, verified the documentation was received within 15 days of binding with the actual search completed prior to binding.
- 8) Review prompt delivery of evidence of insurance AS 21.34.100(a) and 3 AAC 25.060
  - i) Audit steps taken:
    - (1) Reviewed dates of binding and forwarding evidence of insurance to insured.
- 9) Review required material facts are located on evidence of insurance AS 21.34.100(a)
  - i) Audit steps taken:
    - (1) Reviewed documents to confirm required material facts were located on the evidence of insurance
- 10) Review disclosures for use of non-admitted insurer
  - i) Audit steps taken:
    - (1) Reviewed the evidence of insurance to ensure the broker's name and language required by statute AS 21.34.100(e) is present and legible.
- 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) 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

- |   |   |
|---|---|
| <b>1. Verify that quarterly reports and accompanying forms were filed on time</b> | <b>AS 21.34.080 and .170, 3 AAC 25.090 and .100</b> |
|---|---|

*Comments:* The eight original quarterly reports with accompanying forms were filed on time.

*Results:* Passed (error rate 0%)

- |  |                     |
|--|---------------------|
| <b>2. Verify the accuracy of the premium calculation</b> | <b>AS 21.34.180</b> |
|--|---------------------|

*Comments:* The premium was calculated correctly for all policies in the audit files.

*Results:* Passed (error rate 0%)

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

*Comments:* One report of surplus lines transaction report was filed incorrectly when the wrong policy type code was used to accurately identify the type of policy written for the insured.

After July 21, 2011, there was some confusion with multi-state risk transactions if the location of risk was still required to be reported when the insured's home state was Alaska with 100% of the premium reported to Alaska. Locations of risk are still required to be reported per statute AS 21.34.080(a)(3). For the multi-state policies in the audit, the other states were not identified on the reports as filed to the division. This will not be a finding in this audit but all future reports need to have locations of risk accurately identified. This can include either listing each state involved or a complete spreadsheet of all separate address locations or something in between.

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

*Recommendations:* It is recommended that the broker revise written procedures to include a review of the policy type codes in Bulletin 08-08 to ensure they are providing accurate information to the division.

*The broker's response:* A secondary review of policy type coding has been implemented, with emphasis to ensure that liability policies are appropriately coded on the Report of Surplus Lines Transaction.

- |   |                     |
|---|---------------------|
| <b>4. Verify the home state for insured is Alaska</b> | <b>AS 21.34.180</b> |
|---|---------------------|

*Comments:* The home state is Alaska for all policies 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:* All payments were made on or before the required due date for the quarterly payments and made by ACH.

*Results:* Passed (error rate 0%)

**6. Verify tax and filing fees payments were made accurately**

**AS 21.34.180, 3 AAC 21.550 - .570**

*Comments:* All tax and fee payments made by the broker were accurate based upon the quarterly reports as filed.

*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. Thirty six files have problems with that documentation:

- No documentation in file – 1
- Affidavits received after binding – 35, including two effective after 9/4/14 received after the allowed 15 days from binding.

On 9/4/14, the requirements changed in regulation for when the documentation should be provided to the broker. The producer must continue to conduct the diligent search prior to binding but can provide the documentation to the broker up to 15 days after binding.

*Results:* Failed (14 files passed & 36 failed, error rate 72%)

*Recommendations:* It is recommended that the broker ensure written procedures are followed to obtain the Affidavits of Due Diligence within 15 days of binding including those with risks located on the placement list as required by Alaska law.

*The broker's response:* Written procedures have been updated and distributed regarding obtaining Affidavits of Due Diligence within 15 days of binding as per AK's revised instructions dated 9/4/14.

**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 bind date or effective date, whichever comes first

*Results:* Passed (error rate 0%)

**9. Review required material facts located on evidence of insurance**

**AS 21.34.100(a)**

*Comments:* One file did not include the material facts as required. It included a confirmation of coverage created by the broker that was missing the general description of coverages.

In two files, a quote which had the material facts was referenced within the confirmation of coverage. The two files referencing the quotes will be accepted as having met the material facts for this audit as it is clear the quote is to become part of the confirmation of coverage to the insured and was provided to the insured at the same time as the confirmation of coverage.

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

*Recommendations:* It is recommended the broker revise their written binder procedures to identify exactly what material facts must be on the confirmation of coverage. When a quote will be referenced within the confirmation of coverage as containing the material facts, it is recommended to use the following wording to identify the quote being referenced: Quote Number \_\_\_\_\_, dated \_\_\_\_\_ is incorporated by reference and is part of this confirmation of coverage as though fully set forth herein.

*The broker's response:* Within AmWINS' internal production system are binder templates, which include all material categories to be completed at the time of issuing confirmation of coverages. Written procedures for completing these binders have been recirculated to ensure compliance. For those confirmation of coverages whereby the carrier's quote becomes the carrier's binder, the AmWINS confirmation of coverage is to include verbiage identifying the incorporation of said quote as part of the confirmation.

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

**AS 21.34.100(e)**

*Comments:* Four endorsements in two files did not have the disclosure language required by law. The broker is generally very consistent with adding the language to all evidence of insurance.

The disclosure stamp includes the notification wording per AS 21.34.110 in addition to the AS 21.34.100(e) language which makes it larger than many locations available on the first page of the documents.

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

*Recommendations:* It is recommended that the broker ensure written procedures are followed that all evidence of insurance including endorsements have the required disclosure stamp wording. The disclosure should be located on the first page of the evidence of insurance so the insured will not miss it, if possible. It is also recommended the notification be removed from the disclosure stamp, if possible, to reduce the size so the disclosure can be located on the first page of the evidence of insurance.

*The broker's response:* The production system is programmed to include this verbiage for the states selected for each policy. Stamps are also available within the system to include on all appropriate documents. Written procedures have been updated to note that all evidence of insurance, including premium bearing and non-premium bearing endorsements must include the required disclosure stamp wording, preferably on the first page.

**11. Review notification for use of non-admitted insurer**

**AS 21.34.110**

*Comments:* All files included documentation the insured was notified the company does not have a certificate of authority, they are not regulated by the Alaska Division of Insurance and in the event of insolvency losses will not be covered by the Alaska Insurance Guaranty Association Act.

*Results:* 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:* On 9/4/14, Alaska law changed requiring the surplus lines broker ensure the Alaska Policyholder Notice of nonrenewal and premium increase is part of the policy. One policy effective after 9/4/14 did not have the required notice and there is no evidence the broker requested it from the company.

Advisory – of the policies effective prior to 9/4/14, there were 30 policies missing the form.

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

*Recommendations:* It is recommended that the broker ensure written procedures are followed that the notice is included from the insurance company. If the notice is outdated or missing, the broker should contact the insurance company to include a correct notice. A step on a checklist is one way to ensure this document is reviewed.

*The broker's response:* Written procedures have been updated to reflect that if the Policyholder Notice is not a part of the policy upon receipt, that a request be made of the carrier to issue an endorsement to include the Policyholder Notice.

## **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 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.

One significant issue did arise during the audit that affects the service to the insured and compliance with Alaska statutes and regulations.

- 1) The diligent search in the admitted market was not documented prior to binding in the majority of the files.

The auditor would like to review any new or revised procedures to help the broker ensure all problems identified in the audit were captured accurately.

### **Re-Audit**

In closing, the auditor's recommended actions and review of the procedures should help the broker correct the problems encountered. It is recommended that 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 June 30, 2015  
TA 15-05

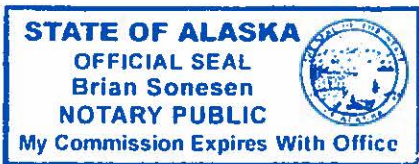
Juneau, Alaska )  
April 11, 2016 )  
State of Alaska ) ss.  
First Judicial District )

I, being duly sworn, do verify that the report of premium tax audit as of June 30, 2015 of AmWINS Insurance Brokerage of CA LLC is true to the best of my knowledge and belief.



Rebecca Nesheim  
Tax Auditor

SUBSCRIBED and SWORN to before me this 12 day of April, 2016



  
Notary Public in and for Alaska

My Commission Expires office