

BEFORE THE TENNESSEE CLAIMS COMMISSION  
MIDDLE DIVISION AT NASHVILLE

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ACE AMERICAN INSURANCE COMPANY, )  
ACE FIRE UNDERWRITERS INSURANCE )  
COMPANY, ACE PROPERTY AND )  
CASUALTY INSURANCE COMPANY, and )  
INDEMNITY INSURANCE COMPANY OF )  
NORTH AMERICA, )  
)  
*Claimants,* )  
)  
v. )  
)  
STATE OF TENNESSEE, )  
)  
*Defendant.* )

Claim Nos. X20120724

On Mandate from the Tennessee Supreme Court, No. M2013-00930-SC-R11-CV

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**FINAL JUDGMENT ORDER**

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This matter is before the Claims Commission following the Tennessee Supreme Court's decision on appeal and issuance of mandate to the Claims Commission. Pursuant to the decision of the Tennessee Supreme Court on consolidated review in *Chartis Cas. Co., et al. v. State*, --- S.W.3d ---, 2015 WL 5766279 (Tenn. Oct. 2, 2015), the Claims Commission finds that (i) the prior Order entered in this cause by the Claims Commission on March 8, 2013 granting summary judgment to the State of Tennessee and dismissing the Claimants' claims for refunds of retaliatory taxes paid under protest should be vacated, and (ii) Claimants ACE American Insurance Company, ACE Fire Underwriters Insurance Company, ACE Property and Casualty Insurance Company, and Indemnity Insurance Company of North America, Appeal No. M2013-00930-SC-R11-CV, are entitled to and should be awarded judgments for full refunds of the retaliatory insurance taxes, penalties, and interest paid under protest for each of the tax years that is the subject of this action, plus additional accrued interest.

It is, accordingly, ORDERED, ADJUDGED, and DECREED that the Claims Commission's Summary Judgment Order previously entered in this cause on March 8, 2013 be and hereby is **VACATED**.

It is FURTHER ORDERED, ADJUDGED, and DECREED that Claimant ACE American Insurance Company be and hereby is **AWARDED JUDGMENT** for and the State shall pay the principal refund amount of \$7,268,783.88 for retaliatory insurance taxes, penalties, and interest paid under protest by Claimant on January 31, 2012 for tax years 2007 through 2010, plus judgment interest thereon accrued at the rate of 5.25% per annum in accordance with Tenn. Code Ann. §§ 9-8-307(d) and 47-14-121(a)(1) from the date of payment under protest, January 31, 2012, through the date of payment of the refund. The accrued interest due on the principal refund amount through December 31, 2015 is \$1,495,079.31, for a total judgment of \$8,763,863.19 as of December 31, 2015, after which interest shall continue to accrue and shall be paid by the State in the amount of \$1,045.51 per day through the date of payment.

It is FURTHER ORDERED, ADJUDGED, and DECREED that Claimant ACE Fire Underwriters Insurance Company be and hereby is **AWARDED JUDGMENT** for and the State shall pay the principal refund amount of \$81,309.99 for retaliatory insurance taxes, penalties, and interest paid under protest by Claimant on January 31, 2012 for tax years 2007 through 2010, plus judgment interest thereon accrued at the rate of 5.25% per annum in accordance with Tenn. Code Ann. §§ 9-8-307(d) and 47-14-121(a)(1) from the date of payment under protest, January 31, 2012, through the date of payment of the refund. The accrued interest due on the principal refund amount as of December 31, 2015 is \$16,724.24, for a total judgment of \$98,034.23

through December 31, 2015, after which interest shall continue to accrue and shall be paid by the State in the amount of \$11.70 per day through the date of payment.

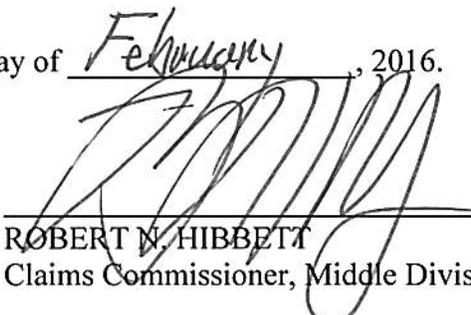
It is FURTHER ORDERED, ADJUDGED, and DECREED that Claimant ACE Property and Casualty Insurance Company be and hereby is **AWARDED JUDGMENT** for and the State shall pay the principal refund amount of \$241,111.53 for retaliatory insurance taxes, penalties, and interest paid under protest by Claimant on January 31, 2012 for tax years 2007 through 2010, plus judgment interest thereon accrued at the rate of 5.25% per annum in accordance with Tenn. Code Ann. §§ 9-8-307(d) and 47-14-121(a)(1) from the date of payment under protest, January 31, 2012, through the date of payment of the refund. The accrued interest due on the principal refund amount through December 31, 2015 is \$49,593.01, for a total judgment of \$290,704.53 as of December 31, 2015, after which interest shall continue to accrue and shall be paid by the State in the amount of \$34.68 per day through the date of payment.

It is FURTHER ORDERED, ADJUDGED, and DECREED that Claimant Indemnity Insurance Company of North America be and hereby is **AWARDED JUDGMENT** for and the State shall pay the principal refund amount of \$5,789,008.54 for retaliatory insurance taxes, penalties, and interest paid under protest by Claimant on January 31, 2012 for tax years 2007 through 2010, plus judgment interest thereon accrued at the rate of 5.25% per annum in accordance with Tenn. Code Ann. §§ 9-8-307(d) and 47-14-121(a)(1) from the date of payment under protest, January 31, 2012, through the date of payment of the refund. The accrued interest due on the principal refund amount through December 31, 2015 is \$1,190,711.83, for a total judgment of \$6,979,720.37 as of December 31, 2015, after which interest shall continue to

accrue and shall be paid by the State in the amount of \$832.67 per day through the date of payment.

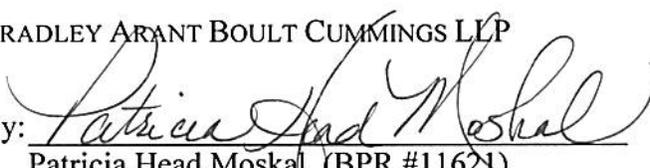
It is FURTHER ORDERED, ADJUDGED, and DECREED that the costs of this action be and hereby are taxed to the State of Tennessee.

IT IS SO ORDERED this the 11 day of February, 2016.

  
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ROBERT N. HIBBETT  
Claims Commissioner, Middle Division

Approved and Submitted for Entry by:

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By: 

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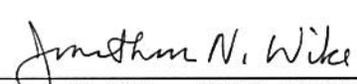
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**CERTIFICATE OF SERVICE**

This is to certify that a true and exact copy of the foregoing document has been served upon the following parties of record:

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This 16<sup>th</sup> of Feb., 2016.

Paula Merrifield  
PAULA MERRIFIELD  
Administrative Clerk  
Tennessee Claims Commission