

Received

FILED

BEFORE THE TENNESSEE CLAIMS COMMISSION
MIDDLE SECTION AT NASHVILLE

2016 FEB -2 P 3:14

AMERICAN CASUALTY COMPANY)
OF READING, PENNSYLVANIA,)
)
) *Claimant/Appellant,*)
)
 v.)
)
 STATE OF TENNESSEE,)
)
) *Defendant/Appellee.*)
)

Claim No. X07092010
On Mandate from the Tennessee Supreme
Court, No. M2013-00898-SC-R11-CV

FILED
TN CLAIMS COMMISSION
CLERK'S OFFICE
2016 FEB 16 A 11:45

FINAL JUDGMENT ORDER

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 Claimant's claims for refunds of retaliatory taxes paid under protest for tax years 2005 and 2006 should be vacated, and (ii) Claimant American Casualty Company of Reading, Pennsylvania, Appeal No. M2013-00898-SC-R11-CV, is entitled to and should be awarded judgments for full refunds of the retaliatory insurance taxes, penalties, and interest paid under protest for the tax years 2005 and 2006 that are the subject of this action, plus additional accrued interest.

It is, accordingly, ORDERED, ADJUDGED, and DECREED that the Claims Commissioner's Summary Judgment Order previously entered in this cause on March 8, 2013,

granting summary judgment to the State of Tennessee and dismissing Claimant's refund claims for tax years 2005 and 2006 be and hereby is **VACATED**.

It is **FURTHER ORDERED, ADJUDGED, and DECREED** that Claimant American Casualty Company of Reading, Pennsylvania be and hereby is **AWARDED JUDGMENT** for and the State shall pay a total judgment of **\$113,827.33** as of December 31, 2015, for the following retaliatory insurance taxes, penalties, and interest paid under protest by Claimant for tax years 2005 and 2006, plus applicable 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 respective dates of payment under protest as set forth below through the date of payment of the refunds:

- (i) \$52,782.00 in retaliatory taxes paid under protest on March 24, 2010 for tax years 2005 and 2006. The accrued interest due on the 2005 and 2006 retaliatory taxes paid under protest on March 24, 2010 is \$16,003.79 through December 31, 2015, after which interest shall continue to accrue and shall be paid by the State in the amount of \$7.60 per day, through the date of payment; and
- (ii) \$34,796.39 in penalties and interest paid under protest on May 24, 2010 for tax years 2005 and 2006. The accrued interest due on the 2005 and 2006 penalties and interest paid under protest on May 24, 2010 is \$10,245.15 through December 31, 2015, after which interest shall continue to accrue and shall be paid by the State in the amount of \$ 5.01 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.



ROBERT N. HIBBETT
Claims Commissioner, Middle Division

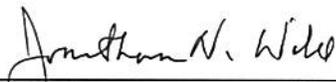
Submitted for Entry by:

ADAMS AND REESE LLP

By: 

Brad A. Lampley (BPR #20864)
Tricia T. Olson (BPR #24643)
424 Church Street, Suite 2700
Nashville, TN 37219
(615) 259-1450
Attorneys for Claimant

HERBERT H SLATERY III
ATTORNEY GENERAL AND REPORTER



Jonathan N. Wike (BPR #018281)
Senior Counsel
Office of the Attorney General, Tax Division
P.O. Box 20207
Nashville, TN 37202-0207
(615) 741-7404
Attorneys for the State of Tennessee

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:

JON WIKE
Attorney General's Office
Tax Division
P.O. Box 20207
Nashville, TN 37202-0207
(615) 741-3518

Attorneys For Claimant:

BRAD LAMPLEY
TRICIA OLSON
LORI SCHWARTZMILLER
Adams and Reese LLP
424 Church Street, Suite 2800
Nashville, TN 37219-2386
Phone: (615) 259-1012
Fax: (615) 259-1470

This 16th day of Feb., 2016.

Paula Merrifield

PAULA MERRIFIELD
Administrative Clerk
Tennessee Claims Commission