

BEFORE THE TENNESSEE CLAIMS COMMISSION
MIDDLE DIVISION AT NASHVILLE

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AMERICAN HOME ASSURANCE)
COMPANY and COMMERCE AND)
INDUSTRY INSURANCE COMPANY,)
)
) *Claimant,*)
)
)
) v.)
)
) STATE OF TENNESSEE,)
)
)
) *Defendant.*)

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Claim No. X20111215
ON MANDATE FROM THE TENNESSEE SUPREME COURT,
APPEAL NO. M2013-00875-COA-R3-CV

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FINAL JUDGMENT ORDER

This matter is before the Claims Commission following the Tennessee Court of Appeals' decision on appeal, denial of review by the Tennessee Supreme Court, and the issuance of mandate to the Claims Commission. The decision of the Tennessee Court of Appeals in *American Home Assurance Company, et al. v. State of Tennessee*, No. M2013-00875-COA-R3-CV, 2014 WL 3807845 (Tenn. Ct. App. July 31, 2014), *perm. app. denied* (Tenn. Jan. 16, 2015), affirmed in part and reversed in part 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. Pursuant to the Court of Appeals' decision, the Claims Commission finds that (i) the prior Order entered in this cause on March 8, 2013 should be vacated, (ii) the State of Tennessee is entitled to and should be awarded a final judgment dismissing the Claimants' claims for refunds of retaliatory taxes, penalties and interest paid for each of the tax years that is the subject of this action, 2007 through 2010, to the extent the refund claims were based upon the New York workers' compensation assessments, and (iii) Claimants American Home Assurance Company and

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Commerce & Industry Insurance Company are entitled to and should be awarded final judgment for the refund, if any, of additional retaliatory taxes, penalties and interest paid under protest for tax years 2007 through 2010 to the extent the subject payments were based upon the New York fire insurance fees and motor vehicle charges fees, 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 the State of Tennessee be and hereby is **AWARDED JUDGMENT** dismissing Claimants' claims for refunds of retaliatory taxes, penalties and interest paid for tax years 2007 through 2010 to the extent those claims were based on the New York workers' compensation assessments.

It is FURTHER ORDERED, ADJUDGED, and DECREED that Claimants did not pay any retaliatory taxes, penalties and interest based on the New York fire insurance fees or motor vehicle charges for tax years 2007 through 2010 and, therefore, no refunds are due to Claimants.

IT IS SO ORDERED this the 16 day of February, 2018.



ROBERT N. HIBBETT
Claims Commissioner

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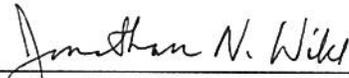
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CERTIFICATE OF SERVICE

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 19th day of Feb., 2016.

Paula Merrifield

PAULA MERRIFIELD
Administrative Clerk
Tennessee Claims Commission