

BEFORE THE TENNESSEE CLAIMS COMMISSION
MIDDLE DIVISION AT NASHVILLE

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CHARTIS CASUALTY COMPANY,)
GRANITE STATE INSURANCE COMPANY,)
INSURANCE COMPANY OF THE STATE OF)
PENNSYLVANIA, and NEW HAMPSHIRE)
INSURANCE COMPANY)

Claimants,

v.

STATE OF TENNESSEE,

Defendant.

Claim Nos. X20120529

On Mandate from the Tennessee Supreme Court, No. M2013-00885-SC-R11-CV

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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 Claimants' claims for refunds of retaliatory taxes paid under protest should be vacated, and (ii) Claimants Chartis Casualty Company, Granite State Insurance Company, Insurance Company of the State of Pennsylvania, and New Hampshire Insurance Company, Appeal No. M2013-00885-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 Chartis Casualty Company be and hereby is **AWARDED JUDGMENT** for and the State shall pay the principal refund amount of \$68,494.00 for retaliatory insurance taxes, penalties, and interest paid under protest by Claimant on December 1, 2011 for tax year 2009, 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, December 1, 2011, through the date of payment of the refund. The accrued interest due on the principal refund amount through December 31, 2015 is \$14,689.15, for a total judgment of \$83,183.15 as of December 31, 2015, after which interest shall continue to accrue and shall be paid by the State in the amount of \$9.85 per day through the date of payment.

It is FURTHER ORDERED, ADJUDGED, and DECREED that Claimant Granite State Insurance Company be and hereby is **AWARDED JUDGMENT** for and the State shall pay the principal refund amount of \$338,539.00 for retaliatory insurance taxes, penalties, and interest paid under protest by Claimant on December 1, 2011 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,

December 1, 2011, through the date of payment of the refund. The accrued interest due on the principal refund amount through December 31, 2015 is \$72,602.70, for a total judgment of \$411,141.70 as of December 31, 2015, after which interest shall continue to accrue and shall be paid by the State in the amount of \$48.69 per day through the date of payment.

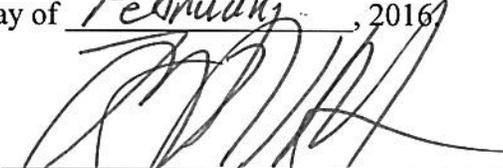
It is FURTHER ORDERED, ADJUDGED, and DECREED that Claimant Insurance Company of the State of Pennsylvania be and hereby is **AWARDED JUDGMENT** for and the State shall pay the principal refund amount of \$35,269.00 for retaliatory insurance taxes, penalties, and interest paid under protest by Claimant on December 1, 2011 for tax year 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, December 1, 2011, through the date of payment of the refund. The accrued interest due on the principal refund amount through December 31, 2015 is \$7,563.75, for a total judgment of \$42,832.75 as of December 31, 2015, after which interest shall continue to accrue and shall be paid by the State in the amount of \$5.07 per day through the date of payment.

It is FURTHER ORDERED, ADJUDGED, and DECREED that Claimant New Hampshire Insurance Company be and hereby is **AWARDED JUDGMENT** for and the State shall pay the principal refund amount of \$21,780.00 for retaliatory insurance taxes, penalties, and interest paid under protest by Claimant on December 1, 2011 for tax year 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, December 1, 2011, through the date of payment of the refund. The accrued interest due on the principal refund amount through December 31, 2015 is \$4,670.91, for a total judgment of \$26,450.91 as of

December 31, 2015, after which interest shall continue to accrue and shall be paid by the State in the amount of \$3.13 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

Approved and Submitted for Entry by:

ADAMS AND REESE LLP

By: 

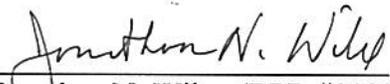
Brad A. Lampley (BPR #20864)
Tricia Olson (BPR #24646)
424 Church Street, Suite 2700
P.O. Box 340025
Nashville, TN 37219

Admitted Pro Hac Vice

Tracy D. Williams
William M. Sneed
Peter D. Edgerton
Lisa E. Schwartz
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, IL 60603

Attorneys for Claimants

HERBERT H SLATERY III
ATTORNEY GENERAL AND REPORTER

By: 

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