

BEFORE THE TENNESSEE CLAIMS COMMISSION  
MIDDLE DIVISION AT NASHVILLE

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TN CLAIMS COMMISSION  
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COMMERCE & INDUSTRY INSURANCE )  
COMPANY, )  
 )  
 Claimant, )  
 )  
 v. )  
 )  
 STATE OF TENNESSEE, )  
 )  
 Defendant. )

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Claim No. X20140417  
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**FINAL JUDGMENT ORDER**

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This matter is before the Claims Commission following the decision by the Tennessee Court of Appeals in the related case of *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) (Claims Commission No. X20111215), and the issuance of mandate by the Tennessee Supreme Court to the Claims Commission. In the related case, the Court of Appeals affirmed in part and reversed in part the prior Order entered 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 for tax years 2007 through 2010. *Id.* The Claims' Commission's March 8, 2013 Order in the related case has now been vacated and a final judgment order entered on February 25, 2016.

On April 17, 2014, Claimant filed this separate claim for refund of additional retaliatory taxes paid under protest for tax year 2011. The Claims Commission entered an order on May 23, 2014 holding this matter in abeyance pending a final resolution of the related case. The Claims

Commission now finds that the related case has been resolved through the entry of a final judgment order, and further finds that the decision of the Court of Appeals in the related case, *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) (Claims Commission No. X20111215), controls the outcome of the pending matter as follows: (i) the State of Tennessee is entitled to and should be awarded a final judgment dismissing the Claimant's claims for refunds of additional retaliatory taxes, penalties and interest paid for tax year 2011 that are the subject of this action to the extent the subject payments were based upon the New York workers' compensation assessments; and (ii) Claimant Commerce & Industry Insurance Company is entitled to and should be awarded final judgments for refund, if any, of additional retaliatory taxes, penalties and interest paid under protest for tax year 2011 that are the subject of this action to the extent the subject payments were based upon the New York fire insurance fees and motor vehicle charges, plus additional accrued interest.

It is accordingly ORDERED, ADJUDGED, and DECREED that the State of Tennessee be and hereby is **AWARDED JUDGMENT** dismissing Claimant's claims for refunds of retaliatory taxes, penalties and interest paid under protest to the extent those payments were based on the New York workers' compensation assessments for tax year 2011.

It is FURTHER ORDERED, ADJUDGED, and DECREED that Claimant did not pay any retaliatory taxes, penalties and interest based on the New York fire insurance fees or motor vehicle charges for tax year 2011 and, therefore, no refunds are due to Claimant.

IT IS SO ORDERED this the 25 day of February, 2016.

  
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ROBERT N. HIBBETT  
Claims Commissioner

Approved and Submitted for Entry by:

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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 29<sup>th</sup> of Feb., 2016.

*Paula Merrifield*  
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Administrative Clerk  
Tennessee Claims Commission