

BEFORE THE TENNESSEE CLAIMS COMMISSION
MIDDLE DIVISION AT NASHVILLE

FILED
IN CLAIMS COMMISSION
CLERK'S OFFICE
2015 FEB -11 P 3:11

SENECA INSURANCE COMPANY, INC.)
)
Claimant,)
)
v.)
)
STATE OF TENNESSEE,)
)
Defendant.)

Claim No. X05192011

RECEIVED

FEB 04 2016

IN CLAIMS COMMISSION
CLERK'S OFFICE

FINAL JUDGMENT ORDER

FILED
IN CLAIMS COMMISSION
CLERK'S OFFICE
2015 FEB 19 9 A 10:41

This matter is before the Claims Commission following the Tennessee Court of Appeals decision in the related case of *Chubb Indemnity Ins. Co., et al. v. State*, No. M2013-00894-COA-R3-CV, 2014 WL 3808657 (Tenn. Ct. App. July 31, 2014), *perm. app. denied* (Tenn. Jan. 16, 2015) (Claims Commission No. X20090918), the denial of review by the Tennessee Supreme Court, and the issuance of mandate to the Claims Commission. In the related case, the Court of Appeals affirmed in part and reversed in part the prior Order of the Claims Commission entered on March 8, 2013, granting summary judgment to the State of Tennessee and dismissing the claims for refunds.

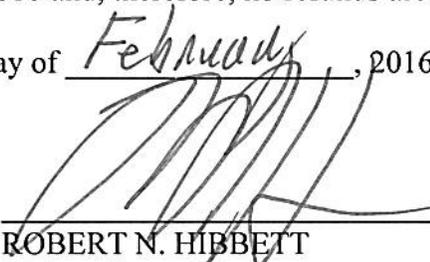
The parties agree and the Claims Commission finds that the decision of the Court of Appeals in the related case controls the disposition of this case based on the common issues of law and fact that are presented. Pursuant to the Court of Appeals' decision, the Claims Commission finds that (i) the State of Tennessee is entitled to and should be awarded a final judgment dismissing Claimant's claims for refunds of retaliatory taxes, penalties and interest

paid for each of the tax years that is the subject of this action to the extent the subject payments were based upon the New York workers' compensation assessments, and (ii) Claimant Seneca Insurance Company is entitled to and should be awarded a final judgment for refund, if any, of the retaliatory taxes, penalties and interest paid for each of the tax years that is 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 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 to the extent those payments were based on the New York workers' compensation assessments for tax years 2005 through 2010.

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 years 2005 through 2010 and, therefore, no refunds are due to Claimant.

IT IS SO ORDERED this the 16 day of February, 2016.



ROBERT N. HIBBETT
Claims Commissioner

Approved and Submitted for Entry by:

BRADLEY ARANT BOULT CUMMINGS LLP

By:



Patricia Head Moskal (BPR #11621)

Brett R. Carter (BPR #19326)

1600 Division Street, Suite 700

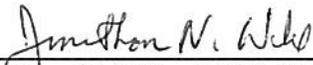
P.O. Box 340025

Nashville, TN 37203

(615) 252-2369

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 Defendant

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

PATRICIA MOSKAL
Attorney for Claimant
P.O. Box 340025
Nashville, TN 37203
(615) 252-2369

This 19th of Feb., 2016.

Paula Merrifield

PAULA MERRIFIELD
Administrative Clerk
Tennessee Claims Commission