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BEFORE THE TENNESSEE CLAIMS COMMISSION
MIDDLE DIVISION AT NASHVILLE

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK,	)	
Claimant,	)	Claim No. X20091124
v.	)	
STATE OF TENNESSEE,	)	On Mandate from the Tennessee Supreme Court, Appeal No. M2013-00896-SC-R11-CV
Defendant.	)	

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 *Great American Ins. Co. of New York v. State,* No. M2013-00896-COA-R3-CV, 2014 WL 3807879 (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 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, 2005 through 2010, to the extent the refund claims were based upon the New York workers' compensation assessments, and (iii) Claimant Great American Insurance Company of New York is entitled to and should be awarded

final judgment for the refund of retaliatory taxes, penalties and interest paid for tax year 2010 to the extent the refund claim was 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 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 Claimant's claims for refunds of retaliatory taxes, penalties and interest paid for tax years 2005 through 2010 to the extent those claims were based on the New York workers' compensation assessments.

It is FURTHER ORDERED, ADJUDGED, and DECREED that Claimant Great American Insurance Company of New York be and hereby is **AWARDED JUDGMENT** for and the State shall pay the principal refund amount of $6,238.83 for retaliatory taxes, penalties and interest paid under protest by Claimant on December 22, 2010 based on the New York fire insurance fees and motor vehicle charges 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 22, 2010, through the date of payment of the refund. The accrued interest due on the principal refund amount through December 31, 2015 is $1,319.13, for a total judgment of $7,557.96 as of December 31, 2015, after which interest shall continue to accrue and shall be paid by the State in the amount of $0.90 per day through the date of payment.

IT IS SO ORDERED this the 11 day of February, 2016.

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 16th of Feb., 2016.

Paula Merrifield

PAULA MERRIFIELD
Administrative Clerk
Tennessee Claims Commission