

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

DEVELOPERS SURETY AND)	
INDEMNITY COMPANY,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	2:09cv757-MHT
)	(WO)
OLD TOWNE STATION, LLC,)	
et al.,)	
)	
Defendants.)	

OPINION

Plaintiff Developers Surety and Indemnity Company brings suit against a number of defendants, seeking damages for breach of contract and other state law claims, arising from a General Indemnity Agreement. The defendants are Old Towne Station, LLC, Sandbox Properties, LLC, Lauren Carroll, Alison Green, Scott Brandt, and Irma Brandt. Jurisdiction is proper pursuant to 28 U.S.C. § 1332 (diversity). Green and Carroll have been dismissed from the case, and summary judgment entered against the Brandts; thus Old Towne and Sandbox Properties are the only remaining parties. This case is

now before the court on Developers Surety's motion for an entry of default judgment against Old Towne and Sandbox Properties. For the reasons that follow, the motion will be granted.

Developers Surety executed a subdivision completion bond, with defendant Old Towne as principal, in connection with the development of the "Old Towne Station project," to be built in the City of Auburn, Alabama. Developers Surety acted as a surety on the bond only after entering into a general indemnity agreement, signed by the defendants (including Sandbox Properties) and notarized. The agreement stated that Developers Surety would be compensated and held harmless for all losses to the city, the obligee on the bond, incurred in the completion of the project.

Thereafter, Old Towne failed to perform on its obligations in the construction of the project, and the city brought claims against Developers Surety as the guarantor. Developers Surety seeks an award of

\$ 184,150.60 in damages against Old Towne and Sandbox Properties, as well as attorneys' fees, costs, and expenses.

Developers Surety submitted a motion for an entry of default judgment against Old Towne and Sandbox Properties after they failed to answer or otherwise respond to the complaint within the time allowed by law. By order of this court, Old Towne and Sandbox Properties had until July 20, 2010, to show cause as to why the motion for entry of default judgment should not be granted. They did not respond. Default judgment is therefore due to be entered against Old Towne and Sandbox Properties. An appropriate judgment will be entered.

DONE, this the 22nd day of July, 2010.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE