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United States District Court  
Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

<p>GREAT AMERICAN INSURANCE COMPANY,</p> <p>Plaintiff,</p> <p>v.</p> <p>RODOLFO ARTAP, a.k.a. RUDY ARTAP, et al.,</p> <p>Defendants.</p>
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Case No.: 11-cv-1842 PJH (JSC)

**ORDER RE: PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT (Dkt. No. 68)**

In this civil action, Plaintiff Great American Insurance Company, Inc., moves for Final Default Judgment against Defendants Antonio Boleche, Ian Colvin, Jeremy Ferrer, Jerry Kahue, James Salceda, Vichai Do, Luis Tobar Marquez and Emmanuel Valdez, seeking default judgment, damages and costs. This motion was referred to the undersigned Judge for a report and recommendation. The deadline for opposing the motion has passed, see Civ. L.R. 7-3(a), and the Defaulted Defendants have not filed an opposition nor otherwise communicated with the Court. Having reviewed the papers submitted in support of Plaintiff's

1 request for default judgment and the relevant legal authority, the Court hereby orders Plaintiff  
2 to submit additional briefing in support of its motion for default judgment.

### 3 4 **BACKGROUND**

5 Plaintiff Great American Insurance Company, Inc., (“Great American”) brought this  
6 civil action against the following Defendants: Rodolfo Artap, a.k.a. Rudy Artap, Antonio  
7 Boleche, Ian Colvin, Carlos Corobado, Jeremy Ferrer, Steven Hagen, Jerry Kahue, James  
8 Salceda, David Siharath, Vichai So, Luis Tobar Marquez, Emmanuel Valdez (collectively  
9 “the Employee Defendants”); and Vinh Nguyen, d.b.a. Kim Tin Jewelry, and Pleasant Hill  
10 Coin & Jewelry, alleging that these Defendants participated in a scheme to steal gold from  
11 Bei Sensors & Systems Company, Inc., (“Bei”), who was insured by Plaintiff Great  
12 American.<sup>1</sup> Plaintiff alleged the following violations (1) unjust enrichment, (2) fraud, (3)  
13 conversion, (4) breach of contract, (5) money had and received, (6) equitable subrogation,  
14 (7) equitable indemnity. (Dkt. No. 1, ¶¶ 30-63).

15 Eight of the Employee Defendants, Antonio Boleche, Ian Colvin, Jeremy Ferrer, Jerry  
16 Kahue, James Salceda, Vichai So, Luis Tobar Marquez, and Emmanuel Valdez (“Defaulted  
17 Defendants”), failed to file a responsive pleading or otherwise appear and the clerk entered  
18 their default pursuant to Federal Rule of Civil Procedure 55(a). (Dkt. Nos. 27, 39, 45, 65).  
19 Plaintiff now moves for default judgment against the Defaulted Defendants asking that they  
20 be held jointly and severally liable for \$7,750,000 in damages and \$3,480.21 in costs based  
21 on the following violations: (1) unjust enrichment, (2) fraud, (3) conversion, (4) breach of  
22 contract, (5) money had and received, (6) equitable subrogation, (7) equitable indemnity, (8)  
23 breach of duty of loyalty, and (9) conspiracy.

24  
25 <sup>1</sup> Great American actually insured Bei’s parent corporation, Schneider Electric Holdings, Inc.,  
26 under Crime Protection Policy, No. SAA 517-77-45-03. On or about October 30, 2008, Bei  
27 submitted a proof of loss pertaining to the gold theft to Plaintiff Great American. Plaintiff  
28 and Bei subsequently entered into a settlement agreement whereby Plaintiff indemnified Bei  
\$7,750,000 for its loss and Bei assigned all of its claims, demands, causes of action and suits  
related to the gold theft to Plaintiff. See BEI Sensors & Systems Company, Inc. v. Great  
American Insurance Company, N.D. Cal. No. 09-5819-SBA.



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judgments while claims remain pending against other defendants. See Shanghai Automation Instrument Co., Ltd. v. Kuei, 194 F.Supp.2d 995, 1008 (N.D. Cal. 2001) (discussing the various approaches courts have taken in these cases). Plaintiff shall address this issue and explain why the Court should enter judgment at this time.

Plaintiff shall serve a copy of this Order on Defendants within three days and shall file a proof of service with this Court.

Accordingly, Plaintiff shall file a supplemental brief addressing these issues by January 6, 2011. The hearing on Plaintiff's Motion for Default Judgment is reset to January 20, 2011 at 2:00 p.m.

**IT IS SO ORDERED.**

Dated: December 8, 2011

  
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JACQUELINE SCOTT CORLEY  
UNITED STATES MAGISTRATE JUDGE