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

United States District Court
Northern District of California

GREAT AMERICAN INSURANCE
COMPANY,

Plaintiff,

v.

RODOLFO ARTAP, a.k.a. RUDY
ARTAP, et al.,

Defendants.

Case No.: 11-cv-1842 PJH (JSC)

**ORDER REGARDING 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 (“Defaulted Defendants”) seeking default judgment, damages and costs. This matter has been referred to the undersigned Judge for a Report and Recommendation. (Dkt. No. 71). The Court has carefully considered the papers submitted by Plaintiff and has had the benefit of oral argument on January 19, 2012. At this time, the Court is inclined to enter default judgment on two of Plaintiff’s claims contingent upon the presentation of additional evidence regarding these claims at a prove-up hearing.

1 Plaintiff has moved for default judgment against the Defaulted Defendants asking that
2 they be held jointly and severally liable for \$7,750,000 in damages and \$3,480.21 in costs
3 based on the following violations: (1) unjust enrichment, (2) fraud, (3) conversion, (4) breach
4 of contract, (5) money had and received, (6) equitable subrogation, (7) equitable indemnity,
5 (8) breach of duty of loyalty, and (9) conspiracy.

6 After entry of default, a court may grant default judgment on the merits of the case.
7 See Fed. R. Civ. P. 55. The factual allegations of the complaint, except those concerning
8 damages, are deemed to have been admitted by the non-responding party. Geddes v. United
9 Financial Group, 559 F.2d 557, 560 (9th Cir. 1977). Based on the allegations of the
10 Complaint (Dkt. No. 5) and the evidence offered in support of Plaintiff's Motion for Default
11 Judgment (Dkt. Nos. 73, 79), the Court is inclined to recommend entry of default on
12 Plaintiff's claims as to conversion as to all of the Defaulted Defendants, and money had and
13 received as to Defendants Kahue, Tobar and Vichai. However, the Court defers a final ruling
14 until after a further hearing pursuant to Federal Rule of Civil Procedure 55(b)(2) regarding the
15 conspiracy allegations and the amount of damages. The Court will issue its Report and
16 Recommendation regarding the motion for default judgment following this prove-up hearing.

17 Plaintiff shall submit further briefing, including any evidence supporting the
18 conspiracy allegations and the amount of judgment sought against each Defendant by March
19 1, 2012. The Court will hold the prove-up hearing on March 22, 2012 at 2:00 p.m.

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

22 **IT IS SO ORDERED.**

23
24 Dated: January 20, 2012

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26 _____
27 JACQUELINE SCOTT CORLEY
28 UNITED STATES MAGISTRATE JUDGE