

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

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|-----------------------------------|---|----------------------------------|
| TRAVELERS CASUALTY AND |) | |
| SURETY COMPANY OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 08-0636-CV-W-GAF |
| |) | |
| JOSHUA EXCAVATING, LLC and |) | |
| JOSHUA K. HAWKINS, |) | |
| |) | |
| Defendants. |) | |

**ORDER GRANTING PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT
AND FINAL JUDGMENT**

On January 8, 2010, Plaintiff’s Motion for Summary Judgment on Counts I, II, & III of its Complaint was filed. (Doc. # 38). On February 16, 2010, the Court entered an Order to Show Cause directing Defendants Joshua Excavating, LLC and Joshua K. Hawkins (collectively “Defendants”) to show cause why Plaintiff’s Motion for Summary Judgment should not be granted. (Doc. # 40). On March 3, 2010, the Court entered its Final Order to Show Cause granting Defendants a final fifteen (15) days to respond to Plaintiff’s Motion for Summary Judgment. (Doc. # 45).

As of this date, Defendants have failed to respond to Plaintiff’s Motion. In accordance with the Court’s prior show cause Orders, it is

ORDERED that Plaintiff’s Motion for Summary Judgment on Counts I, II & III of Its Complaint is **GRANTED**.

IT IS FURTHER ORDERED that judgment is **GRANTED** in favor of Plaintiff Travelers Casualty and Surety Company of America and against Defendants Joshua Excavating, LLC and Joshua K. Hawkins. Defendants shall be jointly and severally liable to Plaintiff in the amount of \$2,312,941.26, plus \$73,533.94 in attorneys’ fees and legal expenses, plus post-judgment interest

and Court costs.

FINALLY, IT IS ORDERED that declaratory judgment is **GRANTED** in favor of Plaintiff and against Defendants that the Defendants are in default under the General Agreement of Indemnity, and therefore Plaintiff possesses the rights of the surety under paragraph 6 of the General Agreement of Indemnity upon a default.

s/ Gary A. Fenner
Gary A. Fenner, Judge
United States District Court

DATED: July 30, 2010