



CLOSED, ECF, JURY, KAPLAN

**U.S. District Court  
Northern District of Texas (Dallas)  
CIVIL DOCKET FOR CASE #: 3:05-cv-01465**

Quilling et al v. Tschebaum et al  
Assigned to: Judge Sam A Lindsay  
Referred to: Magistrate Judge Jeff Kaplan  
Cause: 28:1332 Diversity-Other Contract

Date Filed: 07/25/2005  
Date Terminated: 10/18/2006  
Jury Demand: Both  
Nature of Suit: 190 Contract: Other  
Jurisdiction: Diversity

**Plaintiff**

**Michael J Quilling**  
*Receiver for Sardaukar Holdings, IBC*

represented by **Michael J Quilling**  
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**Plaintiff**

**Bradley C Stark**

represented by **Michael J Quilling**  
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**Brent Jason Rodine**  
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**Michael D Clark**

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V.

**Defendant**

**Hans Tschebaum**

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**Defendant**

**Michael Tschebaum**

represented by **Edwin J Tomko**  
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**Bruce W Claycombe**  
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*TERMINATED: 06/02/2006*

**Jason M Ross**  
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**Michael H Artan**  
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**Defendant****Palace Investments Inc**

represented by **Edwin J Tomko**  
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*LEAD ATTORNEY*  
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**Michael H Artan**  
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<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
07/25/2005	<a href="#"><u>1</u></a>	COMPLAINT against Hans Tschebaum, Michael Tschebaum ( Filing fee \$250; Receipt number 221275), filed by Michael J Quilling, Receiver for Sardaukar Holdings, IBC and Bradley C Stark.(kdc, ) (Entered: 07/26/2005)
07/25/2005		***Magistrate Judge Stickney chosen by random selection to handle matters that may be referred in this case. (kdc, ) (Entered: 07/26/2005)
07/25/2005	<a href="#"><u>2</u></a>	Summons Issued as to Hans Tschebaum and Michael Tschebaum. (kdc, ) (Entered: 07/26/2005)
07/25/2005	<a href="#"><u>3</u></a>	CERTIFICATE OF INTERESTED PERSONS by Michael J Quilling, Bradley C Stark. (kdc, ) (Entered: 07/26/2005)

08/03/2005	<a href="#">4</a>	ORDER REASSIGNING CASE. Case reassigned to Judge Sam A Lindsay for all further proceedings. Judge Barefoot Sanders no longer assigned to case. (Signed by Judge Barefoot Sanders on August 3, 2005) (jyg, ) (Entered: 08/03/2005)
09/01/2005	<a href="#">5</a>	Original ANSWER to Complaint by Hans Tschebaum, Michael Tschebaum.(jrb, ) (Entered: 09/02/2005)
09/09/2005	<a href="#">6</a>	ORDER Requiring Attorney Conference and Status Report. This conference shall take place no later than 9/26/05. Status Report due by 10/11/2005. (Signed by Judge Sam A Lindsay on 9/9/05) (jrb, ) (Entered: 09/12/2005)
10/11/2005	<a href="#">7</a>	Joint STATUS REPORT by Michael J Quilling, Hans Tschebaum, Michael Tschebaum. (jrb, ) (Entered: 10/12/2005)
10/12/2005	<a href="#">8</a>	ORDER. The parties are directed to sign a "Consent to Proceed Before a United States Magistrate Judge" form and submit it to the court no later than 10/26/05. (Signed by Judge Sam A Lindsay on 10/12/05) (jrb, ) (Entered: 10/14/2005)
12/01/2005	<a href="#">9</a>	Vacation Letter as to Bruce W Claycombe for dates Dec 21, 2005 until Jan 3, 2006. (jyg, ) (Entered: 12/02/2005)
12/16/2005	<a href="#">10</a>	***VACATED PER ORDER OF 4/28/06***SCHEDULING ORDER: Amended Pleadings due by 3/20/2006. Discovery due by 11/6/2006. This case is set for trial on this court's four week docket beginning 3/5/2007 before Judge Sam A Lindsay. Pretrial Conference set for 3/2/2007 09:00 AM before Judge Sam A Lindsay. Joinder of Parties due by 3/20/2006. Motions due by 12/4/2006. Proposed Pretrial Order due by 2/12/2007. Pretrial Materials due by 2/12/2007. See order for specifics. (Signed by Judge Sam A Lindsay on 12/16/05) (jrb, ) Modified on 4/28/2006 (jrb, ). (Entered: 12/19/2005)
12/16/2005	<a href="#">11</a>	ORDER REFERRING CASE to ADR. Type of ADR: mediation. The parties are therefore directed to participate in mediation by 11/20/06. (Signed by Judge Sam A Lindsay on 12/16/05) (jrb, ) (Entered: 12/19/2005)
01/18/2006	<a href="#">12</a>	MOTION for Preliminary Injunction by Michael J Quilling, Bradley C Stark with brief in support. (jrb, ) (Entered: 01/19/2006)
01/18/2006	<a href="#">13</a>	Appendix in Support re <a href="#">12</a> MOTION filed by Michael J Quilling, Bradley C Stark. (jrb, ) (Entered: 01/19/2006)

02/07/2006	<a href="#">14</a>	RESPONSE to Motion re <a href="#">12</a> MOTION filed by Hans Tschebaum, Michael Tschebaum. (jrb, ) (Entered: 02/08/2006)
02/07/2006	<a href="#">15</a>	Appendix in Support re <a href="#">14</a> Response to Motion filed by Hans Tschebaum, Michael Tschebaum. (jrb, ) (Entered: 02/08/2006)
02/22/2006	<a href="#">16</a>	REPLY to Response to Motion re <a href="#">12</a> MOTION filed by Michael J Quilling, Bradley C Stark. (jrb, ) (Entered: 02/23/2006)
02/22/2006	<a href="#">17</a>	Supplemental Appendix in Support re <a href="#">16</a> Reply to Response to Motion filed by Michael J Quilling, Bradley C Stark. (jrb, ) (Entered: 02/23/2006)
03/07/2006	<a href="#">18</a>	Objection, MOTION for Protective Order and Brief in Support Regarding Plaintiff's Notices of Depositions of Hans Tschebaum and Michael Tschebaum by Hans Tschebaum, Michael Tschebaum (jrb, ) (Entered: 03/08/2006)
03/07/2006	<a href="#">19</a>	Appendix in Support re <a href="#">18</a> MOTION for Protective Order filed by Hans Tschebaum, Michael Tschebaum. (jrb, ) (Entered: 03/08/2006)
03/09/2006	<a href="#">20</a>	ORDER REFERRING MOTION to Judge Stickney: <a href="#">18</a> Motion for Protective Order filed by Hans Tschebaum,, Michael Tschebaum, (Signed by Judge Sam A Lindsay on 3/9/06) (jrb, ) (Entered: 03/10/2006)
03/14/2006	<a href="#">21</a>	ORDER. Set/Reset Deadlines as to <a href="#">18</a> Motion for Protective Order. Motion Hearing set for 3/31/2006 11:00 AM before Magistrate Judge Paul D Stickney. (Signed by Judge Paul D Stickney on 3/14/06) (jrb, ) (Entered: 03/15/2006)
03/16/2006	<a href="#">22</a>	MOTION to Amend/Correct <a href="#">1</a> Complaint by Michael J Quilling, Bradley C Stark with brief in support. (jrb, ) (Entered: 03/17/2006)
03/16/2006	<a href="#">23</a>	RESPONSE to Motion re <a href="#">18</a> MOTION for Protective Order filed by Michael J Quilling, Bradley C Stark. (jrb, ) (Entered: 03/17/2006)
03/20/2006	<a href="#">24</a>	Joint Settlement STATUS REPORT by Michael J Quilling, Bradley C Stark, Hans Tschebaum, Michael Tschebaum. (jrb, ) (Entered: 03/21/2006)
03/21/2006	<a href="#">25</a>	CERTIFICATE of Conference re <a href="#">22</a> MOTION to Amend/Correct <a href="#">1</a> Complaint by Brent Jason Rodine, Michael J Quilling, D Dee Raibourn, III on behalf of Michael J Quilling, Bradley C Stark (jrb, ) (Entered: 03/22/2006)

03/21/2006	<a href="#">26</a>	ORDER granting <a href="#">22</a> Motion to Amend/Correct. Plaintiff shall file their Amended Complaint by 3/27/06. (Signed by Judge Sam A Lindsay on 3/21/06) (jrb, ) (Entered: 03/22/2006)
03/22/2006	<a href="#">27</a>	AMENDED COMPLAINT against Palace Investments Inc, Hans Tschebaum, Michael Tschebaum filed by Michael J Quilling, Bradley C Stark.(jrb, ) (Entered: 03/23/2006)
03/24/2006	<a href="#">28</a>	Notice of Option to Consent to Proceed Before the Magistrate Judge. See order for specifics. (Signed by Judge Jeff Kaplan on 3/24/06) (jrb, ) (Entered: 03/24/2006)
03/24/2006	<a href="#">29</a>	ORDER. Set/Reset Deadlines as to <a href="#">12</a> Motion for Miscellaneous Relief, <a href="#">18</a> Motion for Protective Order. Motion Hearing set for 3/31/2006 11:00 AM before Magistrate Judge Jeff Kaplan. (Signed by Judge Jeff Kaplan on 3/24/06) (jrb, ) (Entered: 03/24/2006)
03/28/2006	<a href="#">30</a>	ORDER Resetting Hearing. Set/Reset Deadlines as to <a href="#">18</a> Motion for Protective Order. Motion Hearing set for 4/4/2006 09:30 AM before Magistrate Judge Jeff Kaplan. (Signed by Judge Jeff Kaplan on 3/28/06) (jrb, ) (Entered: 03/28/2006)
03/29/2006	<a href="#">31</a>	CONSENT to Magistrate Trial by Michael J Quilling. (jrb, ) (Entered: 03/30/2006)
03/31/2006	<a href="#">32</a>	NOTICE of Appearance of Additional Counsel and Request for Notice by Clark B Will on behalf of Michael J Quilling, Bradley C Stark (jrb, ) Modified on 3/31/2006 (jrb, ). (Entered: 03/31/2006)
03/31/2006	<a href="#">33</a>	Refusal to Consent filed by Hans Tschebaum, Michael Tschebaum. (jrb, ) (Entered: 04/03/2006)
04/04/2006	<a href="#">34</a>	Minute Entry for proceedings held before Judge Jeff Kaplan : Motion Hearing held on 4/4/06 re <a href="#">18</a> Motion for Protective Order filed by Hans Tschebaum,, Michael Tschebaum,. (Tape #K1088.) (jrb, ) (Entered: 04/04/2006)
04/04/2006	<a href="#">35</a>	ORDER: After considering the pleadings and hearing the arguments of counsel, the court determines that defendants should be deposed in Dallas if they appear at the preliminary injunction hearing on April 28, 2006. If either or both defendants travel to Dallas for that hearing, the deposition of that defendant will be taken immediately upon the conclusion of the hearing. Otherwise, the court will determine the location of the depositions based on evidence presented at the preliminary injunction hearing. (Signed by Judge Jeff Kaplan on 4/4/2006) (mfw, ) (Entered: 04/04/2006)

04/04/2006	<a href="#">36</a>	ORDER SETTING PRELIMINARY INJUNCTION HEARING: Hearing set for 4/28/2006 09:00 AM before Magistrate Judge Jeff Kaplan. (Signed by Judge Jeff Kaplan on 4/4/2006) (mfw, ) (Entered: 04/04/2006)
04/12/2006	<a href="#">37</a>	Standing Order of Reference : This case is hereby referred to Magistrate Judge Jeff Kaplan for pretrial management. (Signed by Judge Sam A Lindsay on 4/12/06) (jrb, ) (Entered: 04/12/2006)
04/12/2006		***Magistrate Judge Kaplan chosen by random selection to handle matters that may be referred in this case. (jrb, ) (Entered: 04/26/2006)
04/27/2006	<a href="#">38</a>	MOTION to Compel Defendants' Response to Discovery Requests by Michael J Quilling and Bradley C Stark with brief in support. (jrb, ) Modified on 4/28/2006 (jrb, ). (Entered: 04/28/2006)
04/27/2006	<a href="#">39</a>	Appendix in Support filed by Michael J Quilling, Bradley C Stark re <a href="#">38</a> MOTION to Compel (jrb, ) (Entered: 04/28/2006)
04/28/2006	<a href="#">40</a>	Revised SCHEDULING ORDER. Plaintiff shall file a mtn for sumjgm by 5/12/06. See order for other specifics. (Signed by Judge Jeff Kaplan on 4/28/06) (jrb, ) (Entered: 04/28/2006)
04/28/2006	<a href="#">41</a>	ORDER denying without prejudice <a href="#">38</a> Motion to Compel (Signed by Judge Jeff Kaplan on 4/28/06) (jrb, ) (Entered: 04/28/2006)
04/28/2006	<a href="#">42</a>	Minute Entry for proceedings held before Judge Jeff Kaplan : Evidentiary Hearing held on 4/28/06. Receiver's mtn for preliminary injunction heard. Court recessed matter and will resume hearing at later time. (Tape #K1091/1092/1093.) (jrb, ) (Entered: 04/28/2006)
05/12/2006	<a href="#">43</a>	Vacation Letter as to Bruce W. Clayborne for dates June 9, 2006 - June 18, 2006. (mfw, ) (Entered: 05/12/2006)
05/12/2006	<a href="#">44</a>	MOTION for Summary Judgment by Michael J Quilling with brief in support. (jrb, ) (Entered: 05/15/2006)
05/12/2006	<a href="#">45</a>	Appendix in Support filed by Michael J Quilling re <a href="#">44</a> MOTION for Summary Judgment (jrb, ) (Entered: 05/15/2006)
05/15/2006	<a href="#">46</a>	Agreed Order to Surrender Property. See order for specifics. (Signed by Judge Jeff Kaplan on 5/15/06) (jrb, ) (Entered: 05/15/2006)



05/15/2006	<a href="#">47</a>	ORDER re: plaintiff's mtn for sumjgm seeking to recover certain funds and assets allegedly transferred to dfts from a Ponzi scheme. Palace Investments is directed to file an answer or otherwise appear herein no later than 5/25/06. See order for other specifics. (Signed by Judge Jeff Kaplan on 5/15/06) (jrb, ) (Entered: 05/15/2006)
05/17/2006	<a href="#">48</a>	ORDER Setting Preliminary Injunction Hearing. Set/Reset Deadlines as to <a href="#">12</a> Motion for Preliminary Injunction. Motion Hearing set for 5/26/2006 09:00 AM before Magistrate Judge Jeff Kaplan. (Signed by Judge Jeff Kaplan on 5/17/06) (jrb, ) (Entered: 05/18/2006)
05/22/2006	<a href="#">49</a>	ORDER Resetting Preliminary Injunction Hearing: Reset Deadlines as to <a href="#">12</a> Motion for Preliminary Injunction. Motion Hearing set for 6/2/2006 10:00 AM before Magistrate Judge Jeff Kaplan. (Signed by Judge Jeff Kaplan on 5/22/2006) (skt, ) (Entered: 05/22/2006)
05/22/2006	<a href="#">50</a>	ORDER Setting Status Conference: Status Conference set for 6/2/2006 09:00 AM before Magistrate Judge Jeff Kaplan. (See Order for specifics) (Signed by Judge Jeff Kaplan on 5/22/2006) (skt, ) (Entered: 05/22/2006)
05/22/2006	<a href="#">51</a>	Standing ORDER on Non-Dispositive Motions: The following order shall govern the filing and disposition of all discovery-related motions, pleading disputes, and other non-dispositive motions in this case. (See Order for specifics) (Signed by Judge Jeff Kaplan on 5/22/2006) (skt, ) (Entered: 05/22/2006)
05/25/2006	<a href="#">52</a>	ORDER Resetting Preliminary Injunction Hearing. Set/Reset Deadlines as to <a href="#">12</a> Motion for Preliminary Injunction. Motion Hearing set for 6/16/2006 09:00 AM before Magistrate Judge Jeff Kaplan. (Signed by Judge Jeff Kaplan on 5/25/006) (jrb, ) (Entered: 05/26/2006)
05/25/2006	<a href="#">53</a>	MOTION for Permission to Withdraw from Representation of Defendants by Hans Tschebaum, Michael Tschebaum (jrb, ) (Entered: 05/26/2006)
05/26/2006	<a href="#">54</a>	ORDER SETTING HEARING. Set/Reset Deadlines as to <a href="#">53</a> Motion to Withdraw as Attorney. Motion Hearing set for 6/2/2006 09:00 AM before Magistrate Judge Jeff Kaplan. (Signed by Judge Jeff Kaplan on 5/26/06) (jrb, ) (Entered: 05/26/2006)
05/30/2006		MOTIONS REFERRED to Judge Kaplan: <a href="#">18</a> MOTION for Protective Order (jrb, ) (Entered: 05/30/2006)
05/30/2006		MOTIONS REFERRED to Judge Kaplan: <a href="#">12</a> MOTION (jrb, ) (Entered: 05/30/2006)

06/02/2006	<a href="#">55</a>	Minute Entry for proceedings held before Judge Jeff Kaplan : Motion Hearing held on 6/2/06 re <a href="#">53</a> Motion to Withdraw as Attorney filed by Hans Tschebaum,, Michael Tschebaum,. (Tape #K1100.) (jrb, ) (Entered: 06/02/2006)
06/02/2006	<a href="#">56</a>	ORDER granting <a href="#">53</a> Motion to Withdraw as Attorney. Attorney Bruce W Claycombe terminated (Signed by Judge Jeff Kaplan on 6/2/06) (jrb, ) (Entered: 06/02/2006)
06/06/2006	<a href="#">57</a>	Request for Clerk's Entry of Default against Palace Investments Inc by Michael J Quilling, Bradley C Stark. (jrb, ) (Entered: 06/06/2006)
06/08/2006	<a href="#">58</a>	NOTICE of Withdrawal of attorney Bruce W Claycombe by Hans Tschebaum, Michael Tschebaum re <a href="#">56</a> Order on Motion to Withdraw as Attorney (jyg, ) (Entered: 06/09/2006)
06/12/2006	<a href="#">59</a>	NOTICE of Attorney Appearance by Jason M Ross, Edwin J Tomko on behalf of Hans Tschebaum, Michael Tschebaum (jyg, ) (Entered: 06/13/2006)
06/13/2006	<a href="#">60</a>	Application and Order for Admission Pro Hac Vice by Michael H Artan for Hans Tschebaum and Michael Tschebaum (Signed by Judge Jeff Kaplan on June 13, 2006) (jyg, ) (Entered: 06/14/2006)
06/14/2006	<a href="#">61</a>	NOTICE of Attorney Appearance by Jason M Ross on behalf of Palace Investments Inc (Ross, Jason) (Entered: 06/14/2006)
06/14/2006	<a href="#">62</a>	***UNFILED PER ORDER OF 6/15/06*** MOTION for Extension of Time to File Response/Reply as to <a href="#">44</a> MOTION for Summary Judgment by Hans Tschebaum, Michael Tschebaum (Attachments: # <a href="#">1</a> Text of Proposed Order)(Ross, Jason) Modified on 6/15/2006 (jrb, ). (Entered: 06/14/2006)
06/15/2006	<a href="#">63</a>	ORDER. Accordingly, defendants' motion [Doc.#62] is stricken from the record of this case. The district clerk is directed to note on the docket thatthis document has been unfiled. (Signed by Judge Jeff Kaplan on 6/15/06) (jrb, ) (Entered: 06/15/2006)
06/15/2006	<a href="#">64</a>	Order Designating Case for ECF - see order for specifics. (Signed by Judge Sam A Lindsay on 6/15/2006) (lrl, ) (Entered: 06/15/2006)
06/15/2006	<a href="#">65</a>	STANDING ORDER FOR ELECTRONIC FILINGS RELATED TO MATTERS REFERRED TO THE UNITED STATES MAGISTRATE JUDGE (Signed by Judge Jeff Kaplan on 6/15/2006) (lrl, ) (Entered: 06/15/2006)

06/16/2006	<a href="#">66</a>	AFFIDAVIT of Service for Complaint served on Palace Investments on 05/04/06. (Attachments: # <a href="#">1</a> Exhibit A# <a href="#">2</a> Exhibit B)(Quilling, Michael) (Entered: 06/16/2006)
06/19/2006	<a href="#">67</a>	Clerk's ENTRY OF DEFAULT as to Palace Investments Inc (svc, ) (Entered: 06/19/2006)
06/20/2006	<a href="#">68</a>	MOTION for Default Judgment against Palace Investments Inc by Michael J Quilling with Brief in Support. (Attachments: # <a href="#">1</a> Exhibit A# <a href="#">2</a> Exhibit A-1# <a href="#">3</a> Exhibit A-2# <a href="#">4</a> Exhibit A-3# <a href="#">5</a> Exhibit A-4# <a href="#">6</a> Exhibit A-5)(Quilling, Michael) (Entered: 06/20/2006)
06/22/2006	<a href="#">69</a>	MOTION for Leave to File Late Response to Motion for Summary Judgment by Hans Tschebaum, Michael Tschebaum (Attachments: # <a href="#">1</a> Text of Proposed Order)(Ross, Jason) (Entered: 06/22/2006)
06/22/2006	<a href="#">70</a>	STATUS REPORT <i>for Defendants' Second Motion to for Leave to File Late Response to Motion for Summary Judgment</i> by Hans Tschebaum, Michael Tschebaum. (Ross, Jason) (Entered: 06/22/2006)
06/23/2006	<a href="#">71</a>	ORDER granting in part and denying in part <a href="#">69</a> Motion for Leave to File. The court will defer ruling on plaintiff's mtn for sumjgm and plaintiff's mtn for entry of a final default judgment against Palace Investments Inc until 7/13/06 at the earliest. (Signed by Judge Jeff Kaplan on 6/23/06) (jrb, ) (Entered: 06/26/2006)
07/21/2006	<a href="#">72</a>	FINDINGS AND RECOMMENDATIONS re <a href="#">44</a> MOTION for Summary Judgment filed by Michael J Quilling. Plaintiff's motion for summary judgment [Doc. #44] should be granted. The court should enter judgment against Michael Tschebaum in the amount of \$334,237.00 and against HansTschebaum in the amount of \$141,675.71, together with prejudgment and post-judgment interest as allowed by law. As the prevailing party in this case, the Receiver is entitled to recover "costs and reasonable attorney's fees as are equitable and just." Objections to F&R due by 8/4/2006 (Signed by Judge Jeff Kaplan on 7/21/06) (jrb, ) (Entered: 07/21/2006)
07/21/2006	<a href="#">73</a>	ORDER denying <a href="#">12</a> Motion for a preliminary injunction. See order for specifics. (Signed by Judge Jeff Kaplan on 7/21/06) (jrb, ) (Entered: 07/21/2006)
07/26/2006	<a href="#">74</a>	Agreed MOTION to Stay <i>Deadlines Until August 21</i> by Hans Tschebaum, Michael Tschebaum, Palace Investments Inc (Tomko, Edwin) Modified on 7/27/2006 (klm, ). (Entered: 07/26/2006)

07/31/2006	<a href="#">75</a>	ORDER granting <a href="#">74</a> Agreed Motion to Stay all unexpired deadlines until August 21, 2006. (Signed by Judge Jeff Kaplan on 7/31/06) (klm, ) (Entered: 07/31/2006)
08/07/2006	<a href="#">76</a>	ORDER granting <a href="#">68</a> Motion for Default Judgment against Palace Investment, Inc. (Signed by Judge Sam A Lindsay on 8/4/06) (klm, ) (Entered: 08/07/2006)
08/07/2006	<a href="#">77</a>	CLERK'S DEFAULT JUDGMENT in favor of Michael J. Quilling against Palace Investments, Inc.. --Signed by Deputy Clerk Kim McGlothlin. (klm, ) (Entered: 08/07/2006)
08/14/2006	<a href="#">78</a>	Agreed MOTION to Set Aside Default <i>Judgment</i> by Palace Investments Inc (Attachments: # <a href="#">1</a> Text of Proposed Order)(Tomko, Edwin) (Entered: 08/14/2006)
09/18/2006	<a href="#">79</a>	ORDER: The parties are directed to submit a submit a stipulation of dismissal and an agreed order of dismissal of this lawsuit to the chambers of U.S. Magistrate Judge Jeff Kaplan by October 18, 2006. The agreed order of dismissal must be approved and signed by all counsel of record. Alternatively, if either party exercises its right to terminate the settlement agreement, the court shall be so notified promptly. (Signed by Judge Jeff Kaplan on 9/18/06) (klm, ) (Entered: 09/19/2006)
10/17/2006	<a href="#">80</a>	STIPULATION by Michael J Quilling <i>of Dismissal</i> . (Quilling, Michael) (Entered: 10/17/2006)
10/18/2006	<a href="#">81</a>	AGREED ORDER OF DISMISSAL WITH PREJUDICE: These proceedings are dismissed with prejudice and each party is to bear their own costs. (Signed by Judge Jeff Kaplan on 10/18/06) (klm, ) (Entered: 10/18/2006)

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