

SHAWN CREMEEN, MIKE MANGE,
and DONNA J. ATCHLEY,

Plaintiffs,

v.

MICHAEL P. SCHAEFER, et al.,

Defendants.

**CIVIL ACTION
No. 04-2519-CM**

Plaintiffs bring this action claiming that defendants engaged in securities fraud and racketeering when they contrived and carried out a Ponzi scheme. Plaintiffs seek recovery for securities fraud under Section 10(b) of the Securities Act of 1934, 15 U.S.C. § 78j(b); SEC Rule 10(b)-5; Kan.Stat.Ann. § 17-1268(a)-(b); and the Racketeer Influence and Corrupt Organizations Act (RICO), 18 U.S.C. § 1962.

On September 8, 2006, the Clerk entered default as to Linda Schaeffer (Doc. 64). On November 8, 2006, plaintiffs Mange and Atchley filed a motion for default judgment (Doc. 68). The matter is now before the Court on defendant Linda Schaeffer's Motion to Set Aside Entry of Default. The Court takes into considers Linda K. Schaeffer's Affidavit (Doc. 77), Supplemental Affidavit (Doc. 81), the testimony of plaintiff Mange this date, the written memoranda with authorities submitted by the parties in support of their respective positions, and the pleadings, orders and documents in the official court file. For the following reasons, the Court grants the motion of Linda Schaeffer to set aside the default judgment:

The court makes the rulings for the reasons stated orally at the June 26, 2007 hearing. The court finds that defendant Linda Schaefer has established good cause to set aside the entry of default. Specifically, the Court finds that (1) the entry of default was not the result of culpable conduct of defendant Linda Schaefer; (2) plaintiff would not be prejudiced by setting aside the default; and (3) defendant Linda Schaefer alleges that she has meritorious defenses to plaintiffs' claims.

IT IS, THEREFORE, ORDERED that defendant Linda K. Schaeffer's Motion to Set Aside Default Judgment (Doc. 75), is GRANTED. For reasons stated in this Memorandum and Order, the Clerk's Entry of Default as to Linda Schaeffer (Doc. 64) is withdrawn, set aside, and held for naught. The Plaintiffs' Motion for Default Judgment (Doc. 68) is DENIED only with respect to Linda Schaefer.

Dated this 13th day of August, 2007, at Kansas City, Kansas.

s/ Carlos Murguia
HONORABLE CARLOS MURGUIA
UNITED STATES DISTRICT COURT JUDGE

Submitted By:

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s/ Donald W. Vasos
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