

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MARTIN J. WALSH , Secretary of Labor,)	
United States Department of Labor,)	
)	
Plaintiff,)	
)	CIVIL ACTION
v.)	
)	Case No. 22 CV 353
)	
GARY KRIEGER, STRATAGEM, INC., and)	
STRATAGEM, INC. GROUP MEDICAL)	
INSURANCE PLAN,)	
Defendants.)	

ORDER FOR DEFAULT JUDGMENT

Plaintiff Martin J. Walsh, Secretary of Labor, United States Department of Labor (the “Secretary”), Plaintiff in the above-styled action, having filed his Complaint and Defendants Gary Krieger, Stratagem, Inc. (“Stratagem”), and Stratagem, Inc. Group Medical Insurance Plan (“Health Plan”) (collectively, “Defendants”) having been duly served, and Defendants having failed to plead or otherwise defend within the time prescribed by law, and default of the Defendants having been duly entered by this Court on September 21, 2022, and the amount owed by Defendants having been verified by the attested declaration of the Secretary’s investigator; now, therefore, upon motion of the Secretary and for cause shown,

IT IS ORDERED THAT JUDGMENT BE ENTERED against Defendants Gary Krieger, Stratagem, and the Health Plan in accordance with the prayer of the Complaint in the above-styled action; and it is:

ORDERED, ADJUDGED, AND DECREED that:

1. Defendants Gary Krieger and Stratagem are permanently enjoined from violating the provisions of Title I of ERISA;
2. Defendants Gary Krieger and Stratagem are permanently enjoined from serving or acting as fiduciaries to any ERISA-covered employee benefit plan and removing them from any positions they now hold as fiduciaries of the Plan;
3. Defendants Gary Krieger and Stratagem are jointly and severally liable to the Health Plan in the amount of \$18,084.60;
4. Within 15 days of the entry of this Default Judgment, Defendants Gary Krieger and Stratagem shall restore \$18,084.60 to all Health Plan participants who (1) were employees of Stratagem, (2) were Health Plan participants during the period October 15, 2018 through January 15, 2019, (3) had voluntary employee contributions withheld from their pay for contribution to the Health Plan during this period and such contributions were not remitted to the Health Plan. In accordance with Exhibit A, attached hereto and made a part hereof, Defendants Gary Krieger and Stratagem shall restore the \$15,124.21 in unremitted employee contributions to the Health Plan's participants¹ in an amount equal to the unremitted contributions owed to each participant. Defendants Gary Krieger and Stratagem shall allocate the \$2,960.39 in lost opportunity costs to each participant based on the participant's percentage share of the total unremitted contributions owed to Health Plan participants.
5. In restoring the monies identified in paragraph 3 above, Defendants Gary Krieger and Stratagem shall send written proof of the restorations to EBSA Acting Regional Director,

¹ Participant includes a participant's beneficiary when the participant is deceased.

Kelli Hammerl, 230 S. Dearborn St., Suite 2160, Chicago, IL 60604 within 3 days of restoration payments being made; and

6. Defendants Gary Krieger and Stratagem shall exercise reasonable care and diligence to identify and locate each participant and beneficiary of the Health Plan who is eligible to receive a restoration payment under the terms of this Default Judgment and to disburse to each such eligible participant or beneficiary the payment to which he or she is entitled. Defendants Gary Krieger and Stratagem shall take appropriate actions to locate and to notify each participant of the Plan of his/her entitlement to a restoration of losses. Appropriate actions relating to notifying former employees, include complying with the guidance in EBSA Field Assistance Bulletin 2014-01 and 2021-01 See

<https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2014-01>; <https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2021-01>.

Dated: March 6, 2023

/s/Lynn Adelman

LYNN ADELMAN

UNITED STATES DISTRICT COURT JUDGE

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MARTIN J. WALSH, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

**GARY KRIEGER, STRATAGEM, INC., and
STRATAGEM, INC. GROUP MEDICAL
INSURANCE PLAN,**

Defendants.

CIVIL ACTION

Case No. 22 CV 353

**DECLARATION OF INVESTIGATOR DONJEENE SMITH
IN SUPPORT OF SECRETARY OF LABOR'S MOTION FOR DEFAULT JUDGMENT**

I, Donjeene Smith, based on personal knowledge and reasonable belief declare:

1. I am an Investigator employed by the Chicago Regional Office of the Employee Benefits Security Administration ("EBSA"), United States Department of Labor, stationed at 230 S. Dearborn St., Suite 2160, Chicago, IL 60604.

2. In the course of my duties with EBSA, I was assigned the duty of investigating Gary Krieger, Stratagem, Inc. ("Stratagem"), and Stratagem, Inc. Group Medical Insurance Plan ("Health Plan") to determine whether any violations of Title I of the Employee Retirement Income Security Act of 1974, as amended, had occurred or were about to occur.

3. Based on documentation I was provided by the Plan, I computed that: From October 15, 2018 through at least March 29, 2019 Defendants Krieger and Stratagem withheld \$15,124.21 in employee contributions and did not remit them to the Health Plan for purposes of paying insurance premiums. Because Defendants Krieger and Stratagem did not remit said amount to the Health Plan, the policy was cancelled effective November 1, 2018

resulting in denied health claims. The unremitted employee contributions resulted in lost opportunity costs of \$2,960.39. The lost opportunity costs were computed through February 6, 2023, using Internal Revenue Code 6621 interest rates. A copy of my calculations are attached hereto and made a part hereof as attachment 1.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 7 day of February, 2023.



DONJEENE SMITH

Investigator

U.S. Department of Labor

Employee Benefits Security Administration

Chicago Regional Office

230 S. Dearborn St., Suite 2160

Chicago, IL 60604

**Attachment 1 to Exhibit A - EBSA
Investigator Smith Declaration**

Stratagem, Inc. Group Medical Insurance
50-034889
Prepared by Investigator Donjeene Smith
Prepared on February 6, 2023

Participant	Unremitted Employee Contributions*	Lost Opportunity Costs**	Total Due
Christiane Markley	\$ 2,069.15	\$ 405.01	\$ 2,474.16
Michelle Servi	\$ 1,560.78	\$ 305.50	\$ 1,866.28
Rose Kozma	\$ 658.60	\$ 128.91	\$ 787.51
Jeremy Mangione	\$ 658.60	\$ 128.91	\$ 787.51
Shermaine Patton	\$ 658.60	\$ 128.91	\$ 787.51
Scott Remich	\$ 422.74	\$ 82.75	\$ 505.49
Vanessa Thomas	\$ 1,185.41	\$ 232.03	\$ 1,417.44
Sabrina Tolley	\$ 1,185.41	\$ 232.03	\$ 1,417.44
Larry Lunda	\$ 1,719.70	\$ 336.61	\$ 2,056.31
Kelli Hollins	\$ 1,185.41	\$ 232.03	\$ 1,417.44
Angelito Dominquez	\$ 658.60	\$ 128.91	\$ 787.51
Warren Jobs	\$ 658.60	\$ 128.91	\$ 787.51
Gary Krieger	\$ 1,185.41	\$ 232.03	\$ 1,417.44
Mary Woods	\$ 658.60	\$ 128.91	\$ 787.51
Stephanie Cuarto	\$ 658.60	\$ 128.91	\$ 787.51
Total	\$ 15,124.21	\$ 2,960.39	\$ 18,084.60

*Contributions obtain from Stratagem, Inc's 10/15/18 - 3/15/2019 payroll records

**Interest calculated through February 6, 2023