

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (DAYTON)

HILDA L. SOLIS , Secretary of Labor,	:	
United States Department of Labor,	:	Case No. 3:12-cv-00283
	:	
Plaintiff,	:	Judge: Thomas M. Rose
	:	
v.	:	Magistrate Judge: Sharon L. Ovington
	:	
BRUCE E. SPENCER; TANNILE	:	
ELIZABETH ORTIZ; PAUL	:	
OLZESKI; and SPENCER &	:	
ASSOCIATES, LLC PROFIT	:	
SHARING AND 401(K) PLAN,	:	
	:	
Defendants.	:	

JUDGMENT BY DEFAULT AS TO DEFENDANT TANNILE ELIZABETH ORTIZ

Defendant Tannile Elizabeth Ortiz (“Ortiz”), having waived service, having failed to plead or otherwise defend, the legal time for pleading or otherwise defending having expired, and the default of said defendant having been duly entered according to law on December 20, 2012 upon the application of the plaintiff, judgment is hereby entered against said Defendant Ortiz in pursuance of the prayer of said complaint.

Wherefore, it is ORDERED, ADJUDGED AND DECREED that the Plaintiff, the Secretary of Labor, do have and recover from Defendant Ortiz the sum of \$7,061.95, representing principal and lost opportunity costs, calculated using the greater of the Spencer & Associates, LLC Profit Sharing and 401(k) Plan (“the Plan”)’s investment earnings rate or the Internal Revenue Code Section 6621 rate, through January 18, 2013, and Plaintiff have execution thereof. The amount includes \$5,175.98 in unremitted employee contributions, plus lost opportunity costs of \$1,885.97, calculated through January 18, 2013.

Within thirty (30) days, Defendant Ortiz shall send a certified or cashier's check to each Plan Participant who suffered a loss as a result of her fiduciary breaches, as specified in Exhibit A, attached hereto. Within ten (10) days of payment, Defendant Ortiz shall provide satisfactory proof of payment to the Regional Director of the Employee Benefits Security Administration ("EBSA"), 1885 Dixie Highway, Room 210, Fort Wright, KY 41011. If any checks are returned as undelivered, Defendant Ortiz shall promptly notify the Regional Director of EBSA for assistance in assuring that the Plan Participants listed in Exhibit A receive the monies they are due.

It is further ORDERED, ADJUDGED AND DECREED that the additional amount of \$4,321.43 (consisting of \$3,154.42 in unremitted employee contributions and \$1,167.01 in lost opportunity costs, calculated through January 18, 2013), which is owed to Ortiz as a result of her fiduciary breaches, shall be deemed waived.

It is further ORDERED, ADJUDGED AND DECREED that Defendant Ortiz is permanently enjoined from violating the provisions of Title I of ERISA and permanently enjoined from serving as a fiduciary or service provider to any ERISA-covered employee benefit plan.

Judgment entered Friday, January 25, 2013.

s/Thomas M. Rose
THOMAS M. ROSE
United States District Judge

EXHIBIT A

Participant Name and Address	Unremitted Employee Contributions	Lost Opportunity Costs	Total Owed
Ashley Atley 4673 Cottonville Rd. Jamestown, OH 45335	\$ 725.00	\$ 257.40	\$ 982.40
Nancy Harris 2836 Bennington Ave Hamilton, OH 45015-1545	\$ 1,450.00	\$ 514.80	\$ 1,964.80
Lisa Jackson 5858 Graywood Circle SE Mableton, GA 30126-2894	\$ 200.00	\$ 101.66	\$ 301.66
Wendy Kegley P.O. Box 847 Springfield, OH 45501	\$ 435.00	\$ 154.44	\$ 589.44
Lisa Lovelace 133 E. Harding Rd. Springfield, OH 45504	\$ 650.00	\$ 237.68	\$ 887.68
Deborah Porter 905 Mavor St. Springfield, OH 45505	\$ 259.98	\$ 79.84	\$ 339.82
Margaret Ramey 4744 Oxtoby St. Springfield, OH 45505	\$ 700.00	\$ 252.44	\$ 952.44
Sharon Rice 4834 Valley Pike Urbana, Oh 43078-9307	\$ 81.00	\$ 39.88	\$ 120.88
Kathleen Sallot 3407 Turner Dr Springfield, OH 45505	\$ 675.00	\$ 247.83	\$ 922.83
Total:	\$ 5,175.98	\$ 1,885.97	\$ 7,061.95