

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Criminal No.
	:	
	:	18 U.S.C. § 1349
v.	:	26 U.S.C. § 7201
	:	
	:	<u>INFORMATION</u>
RUSSELL D'ANTON	:	
	:	

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

COUNT ONE - CONSPIRACY

BACKGROUND

A. Defendant and Others

1. At all times relevant to this Information:

a. Defendant RUSSELL D'ANTON resided in Monmouth County, New Jersey, and was employed as the President, Chief Executive Officer ("CEO"), and Chairman of the Board of Charlie Brown's Acquisition Corporation ("Charlie Brown's").

b. M.M., who is named as a coconspirator but not as a defendant herein, was a resident of Passaic County, New Jersey, and was employed by Charlie Brown's as a Vice President.

c. J.T. owned and operated a bakery in Middlesex County, New Jersey that sold baked goods to Charlie Brown's.

d. D.C. owned and operated a company identified herein as "SRC" that was located in Morris County, New Jersey.

SRC sold refrigeration and air conditioning equipment to Charlie Brown's and also was contracted to conduct repair and service work on refrigeration and air conditioning equipment at various Charlie Brown's restaurants in and around New Jersey.

e. D.S. owned and operated a company identified herein as "DCS" that was located in Monmouth County, New Jersey. DCS provided construction services to Charlie Brown's. More specifically, Charlie Brown's contracted with DCS to "build out" and renovate the interior of numerous Charlie Brown's restaurants in New Jersey, New York and Pennsylvania.

B. Charlie Brown's

2. At all times relevant to this Information:

a. Charlie Brown's, a privately owned corporation with headquarters in Mountainside, New Jersey, operated more than 30 restaurants in New Jersey, New York, and Pennsylvania, including the Charlie Brown's Steakhouse chain of restaurants.

b. In his capacity as President and CEO of Charlie Brown's, defendant RUSSELL D'ANTON had the authority to negotiate contracts with vendors of Charlie Brown's and to approve or disapprove invoices submitted by vendors of Charlie Brown's. In his capacity as Vice President, M.M. had the authority to negotiate contracts with the vendors who provided Charlie Brown's with food products, paper products, beer and liquor, and certain services. M.M. also had the authority to approve or disapprove invoices submitted by these vendors.

c. Charlie Brown's had an intangible right to the honest services of its employees, including defendant RUSSELL D'ANTON. As the President and CEO of Charlie Brown's, defendant RUSSELL D'ANTON owed Charlie Brown's a duty to, among other things: (1) refrain from demanding or accepting any benefit as consideration for a decision to award or approve payment to any vendor for work or services provided to Charlie Brown's; and (2) disclose, and not conceal, personal financial interests and other material information in matters over which defendant RUSSELL D'ANTON exercised authority and discretion on behalf of Charlie Brown's.

THE CONSPIRACY

3. From at least as early as in or about 1999, through in or about November 2008, in Union County, in the District of New Jersey and elsewhere, defendant

RUSSELL D'ANTON

did knowingly and intentionally conspire and agree with coconspirator M.M. and others to devise a scheme and artifice to defraud Charlie Brown's of its intangible right to his honest services in the performance of his duties, and to obtain money and property by means of materially false and fraudulent, pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to cause to be placed in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service and cause to be deposited matters and things to be sent and delivered

by private and commercial interstate carriers, contrary to Title 18, United States Code, Sections 1341 and 1346.

Object of the Conspiracy

4. The object of the conspiracy was for defendant RUSSELL D'ANTON and M.M. to enrich themselves by arranging for Charlie Brown's contracts to be awarded to vendors who agreed to pay kickback payments in cash, checks and in-kind payments in exchange for receiving the contracts (collectively, "Kickback Payments").

Manner and Means of the Conspiracy

5. It was part of the conspiracy that defendant RUSSELL D'ANTON and M.M. would award contracts to vendors who agreed to pay Kickback Payments.

6. It was further part of the conspiracy that defendant RUSSELL D'ANTON and M.M. would approve invoices for vendors who agreed to pay Kickback Payments.

7. It was further part of the conspiracy that defendant RUSSELL D'ANTON and M.M. would cause and permit vendors to recoup the cost of certain Kickback Payments by submitting fraudulent invoices to Charlie Brown's.

8. It was further part of the conspiracy that defendant RUSSELL D'ANTON and M.M. agreed to share the proceeds of certain Kickback Payments.

Kickbacks for Refrigeration Services

9. It was further part of the conspiracy that D.C. made various types of Kickback Payments to defendant RUSSELL D'ANTON and M.M., including:

a. D.C. and SRC installed high-end appliances and refrigeration equipment in the home of defendant RUSSELL D'ANTON including an oven, refrigerator, outdoor grill, and water heater; and

b. D.C. and SRC installed high-end appliances and refrigeration equipment in the home of M.M. including an oven, grill, laundry sink, bar sink, refrigerator, and air conditioner.

Kickbacks for Construction Services

10. It was further part of the conspiracy that D.S. made various types of Kickback Payments to defendant RUSSELL D'ANTON and M.M., including:

a. DCS performed construction work on defendant RUSSELL D'ANTON's home and M.M.'s home either at no charge or at a significantly reduced charge;

b. D.S. purchased items and trips for defendant RUSSELL D'ANTON including tickets to Broadway shows, chartered flights on private jets, and vacations to destinations including the Bahamas; and

c. D.S. wired money directly to defendant RUSSELL D'ANTON including a wire in amount of approximately \$17,500 that was sent from D.S. to defendant RUSSELL D'ANTON in or about 2001.

Kickbacks for Bakery Products

11. It was further part of the conspiracy that J.T. made various types of Kickback Payments to defendant RUSSELL D'ANTON and M.M., including:

a. J.T. made monthly cash payments to defendant RUSSELL D'ANTON and M.M. in amounts between approximately \$4,000 and approximately \$12,000 per month; and

b. On or about June 29, 2007, J.T. issued fraudulent "payroll checks" in the names of defendant RUSSELL D'ANTON's and M.M.'s family members, including a "payroll" check in the amount of \$4,403.84 sent by J.T., via United States mail, to defendant RUSSELL D'ANTON's home in Monmouth County, New Jersey.

12. It was further part of the conspiracy that, in total, defendant RUSSELL D'ANTON and M.M. obtained in excess of \$1,000,000 in Kickback Payments.

All in violation of Title 18, United States Code, Section 1349.

COUNT TWO - TAX EVASION

1. The allegations contained in paragraphs 1 and 2 and paragraphs 4 through 12 of Count One of this Information are realleged and incorporated as though set forth in full herein.

2. During the 2005 tax year, defendant RUSSELL D'ANTON received Kickback Payments in connection with the fraudulent scheme described in Count One of this Information and failed to report those proceeds as income on his individual income tax return, thereby causing that tax return to understate a substantial amount of income.

3. On or about April 12, 2006, defendant RUSSELL D'ANTON prepared and caused to be prepared, signed and caused to be signed, and filed and caused to be filed with the Internal Revenue Service a false and fraudulent U.S. Individual Income Tax Return reporting taxable income for the calendar year 2005 of \$1,594,856 and a corresponding tax liability of \$440,155.

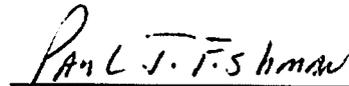
4. At the time the U.S. Individual Income Tax Return was prepared, signed, and filed with the Internal Revenue Service, defendant RUSSELL D'ANTON then and there well knew and believed that the said tax return failed to disclose and report approximately \$123,000 in taxable income derived from the Kickback Payments described in Count One of this Information, upon which income an additional tax of approximately \$44,341 was due and owing to the United States.

5. On or about April 12, 2006, in the District of New Jersey, and elsewhere, defendant

RUSSELL D'ANTON

did knowingly and willfully attempt to evade and defeat a large part of the income tax due and owing to the United States for the calendar year 2005, by preparing and causing to be prepared, by signing and causing to be signed, and by filing and causing to be filed with the Internal Revenue Service, a false and fraudulent 2005 U.S. Individual Income Tax Return, Form 1040, described in paragraph 3, knowing it to be false and fraudulent as described in paragraph 4.

In violation of Title 26, United States Code, Section 7201.



PAUL J. FISHMAN
United States Attorney

CASE NUMBER: _____

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District of New Jersey**

UNITED STATES OF AMERICA

v.

RUSSELL D'ANTON

INFORMATION FOR

**18 U.S.C. § 1349, and
26 U.S.C. § 7201**

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