

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : Criminal No. 01 Cr. 267 (VM)

v. : Filed: 3/23/01

RICHARD RALSTON, : Violation: 18 U.S.C. § 371

Defendant. :

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INFORMATION

CONSPIRACY
(18 U.S.C. § 371)

The United States of America, acting through its attorneys, charges:

1. Richard Ralston ("Ralston") is hereby made a defendant on the charge stated below.

I. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Information:

2. Ralston resided in Jericho, New York. Ralston was the general manager of Jitney, Ltd. ("Jitney").

3. Jitney was a New York State corporation with principal offices in Richmond Hill, New York. Jitney was a vendor of food and non-food items.

4. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such act, deed, or transaction by or through its officers,

directors, agents, employees, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

5. Various persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof. They include Jitney, Jitney's owner Pamela Merberg, and Melvyn Merberg, Jitney's chief executive.

II. DESCRIPTION OF THE OFFENSE

6. From approximately late 1996 or early 1997 until approximately July 1998, the exact dates being unknown to the United States, the defendant and co-conspirators did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree to defraud the United States of America and the Internal Revenue Service ("IRS") by impeding, impairing, defeating, and obstructing the lawful governmental functions of the IRS in the ascertainment, evaluation, assessment, and collection of federal income taxes, and to commit an offense against the United States, to wit, to violate Section 7206(2) of Title 26, United States Code, all in violation of Title 18, United States Code, Section 371.

7. It was a part and object of the conspiracy that Ralston and others known and unknown would and did defraud the IRS by impeding, impairing, obstructing, and defeating the lawful government functions of the IRS in ascertaining, evaluating, assessing, and collecting federal income taxes due and owing from Jitney's owner by

impeding and impairing the IRS's ability to determine accurately the income and expenses of Jitney, by overstating the company's cost of goods sold so as to conceal the receipt and accumulation of substantial amounts of cash by Melvyn Merberg which were never reflected on Jitney's books and records.

8. It was a further part and an object of the conspiracy that Ralston and others known and unknown, unlawfully, willfully, and knowingly would and did aid and assist in, procure, counsel, and advise the preparation and presentation under, and in connection with matters arising under the Internal Revenue laws, of Jitney's U.S. Income Tax Returns for an S Corporation, Forms 1120S, for the tax years 1996 and 1997, that were false and fraudulent as to material matters, in violation of Title 26, United States Code, Section 7206(2).

III. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

9. Beginning in approximately late 1996 or early 1997, Melvyn Merberg instructed Ralston to seek out entities that would cash checks drawn by Jitney. Ralston arranged for four separate companies that were suppliers to Jitney (the "Jitney Suppliers") to cash checks. Two of the Jitney Suppliers were located in the Bronx, New York.

10. On numerous occasions, Ralston and Melvyn Merberg caused Jitney to

draw checks payable to one of the Jitney Suppliers. Ralston carried the checks to the premises of the Jitney Suppliers and received back the full value of the checks in cash, and then gave the cash to Melvyn Merberg and to another employee at Jitney.

11. Jitney treated the full value of these checks issued to the Jitney Suppliers as purchases in its books and records and as cost of goods sold on its tax returns for tax years 1996 and 1997, despite the fact that Ralston and Melvyn Merberg received the full value of the checks back in cash.

IV. OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

12. On several occasions in approximately late 1996 or early 1997, Ralston delivered a total of 10 checks to the offices of a Jitney Supplier located in the Bronx, New York. Ralston received cash on those occasions equal to the value of those 10 checks.

13. On several occasions in approximately late 1996 or early 1997, Ralston delivered a total of 5 checks to the offices of another Jitney Supplier located in the Bronx, New York. Ralston received cash on those occasions equal to the value of those 5 checks.

14. On numerous occasions from approximately late 1996 or early 1997 to approximately December 1997, Jitney issued approximately 187 checks, including those

referred to in Paragraphs 11 and 12 above, with a total value of approximately \$1,336,330, to four Jitney Suppliers, and received that same amount back in cash.

15. On or about March 14, 1997, Jitney filed a U.S. Income Tax Return for an S Corporation, Form 1120S, for tax year 1996 which falsely included as part of Jitney's cost of goods approximately \$401,810, which represented the value of approximately 63 checks, which should not have been included.

16. On or about July 15, 1998, Jitney filed a U.S. Income Tax Return for an S Corporation, Form 1120S, for the tax year 1997 which falsely included as part of

Jitney's cost of goods approximately \$934,520, which represented the value of approximately 124 checks, which should not have been included.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

Dated:

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