

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Criminal No. 12-
	:	
v.	:	18 U.S.C. § 371
	:	26 U.S.C. § 7201
DALE ORLOVSKY	:	
	:	<u>I N F O R M A T I O N</u>

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

COUNT ONE
(Conspiracy to Defraud the United States)

1. At all times relevant to this Information, defendant DALE ORLOVSKY was an attorney whose practice was located in Toms River, New Jersey.

2. At all times relevant to this Information, defendant DALE ORLOVSKY was a fifty percent (50%) owner of Double DD Corporation, a Subchapter S corporation, which did business as Mulligan's Bar and Restaurant ("Mulligan's"), located in Farmingdale, New Jersey.

The Conspiracy

3. From in or about 2003 to in or about 2005, in Ocean County, in the District of New Jersey and elsewhere, defendant
DALE ORLOVSKY
did knowingly and willfully conspire and agree with DONALD J. GRASSO and with others to defraud the United States by impeding, impairing, obstructing and defeating the lawful governmental functions of the Internal Revenue Service of the Department of the Treasury to ascertain, compute, assess, and collect income taxes.

The Object of the Conspiracy

4. It was the object of the conspiracy for DALE ORLOVSKY to conceal certain income generated through the operation of Mulligan's from the Internal Revenue Service.

The Means and Methods of the Conspiracy

5. Mulligan's generated substantial cash receipts in the course of its business.

6. At the direction of defendant DALE ORLOVSKY and his co-owner, DONALD J. GRASSO ("GRASSO"), substantial amounts of the cash were removed from the cash receipts of Mulligan's and not reported in sales reports that were used as the basis for reporting income for Federal Income Tax purposes.

7. Defendant DALE ORLOVSKY himself received some of the cash taken from Mulligan's unreported cash receipts, which he intentionally failed to report as personal income on his Federal income tax returns.

8. Defendant DALE ORLOVSKY directed that some of the cash taken from Mulligan's unreported cash receipts be paid to his co-owner, GRASSO, with the intent and understanding that the cash paid to GRASSO would not be reported as personal income on GRASSO's Federal income tax returns.

9. Defendant DALE ORLOVSKY directed that some of cash taken from Mulligan's unreported cash receipts be paid to some of the employees of Mulligan's (the "Cash Payroll Employees"), with the intent and understanding that the cash paid to the Cash Payroll Employees would not be reported as personal income on the Cash Payroll Employees' Federal income tax returns.

10. Defendant DALE ORLOVSKY then filed materially false Federal Forms 1120 and 941 for the calendar years 2003, 2004 and 2005 by failing to report approximately \$125,892 in cash payroll in 2003, approximately \$199,363 in cash payroll in 2004, and approximately \$192,987 in cash receipts in 2005.

11. Defendant DALE ORLOVSKY then filed materially false federal Individual Income Tax Returns for the calendar years 2003, 2004 and 2005 by failing to report approximately \$58,000 in gross income in 2003, approximately \$23,000 in gross income in 2004, and approximately \$4,000 in gross income in 2005.

Overt Acts

12. In furtherance of the conspiracy and in order to effect its objectives, defendant DALE ORLOVSKY did commit the following overt acts in the District of New Jersey and elsewhere:

- a. In or about 2003, defendant DALE ORLOVSKY filed and caused to be filed with the Internal Revenue Service false and fraudulent Federal Forms 1120 and 941 that failed to disclose approximately \$125,892 in cash receipts, which were paid to the Cash Payroll Employees.
- b. On or about April 15, 2004, defendant DALE ORLOVSKY filed and caused to be filed with the Internal Revenue Service a false and fraudulent 2003 Individual Income Tax Return that failed to disclose approximately \$58,000 in gross income defendant DALE ORLOVSKY received in the calendar year 2003.
- c. In or about 2004, defendant DALE ORLOVSKY filed and

caused to be filed with the Internal Revenue Service false and fraudulent Federal Forms 1120 and 941 that failed to disclose approximately \$199,363 in cash receipts, which were paid to the Cash Payroll Employees.

- d. On or about April 15, 2005, defendant DALE ORLOVSKY filed and caused to be filed with the Internal Revenue Service a false and fraudulent 2004 Individual Income Tax Return that failed to disclose approximately \$23,000 in gross income defendant DALE ORLOVSKY received in the calendar year 2004.
- e. In or about 2005, defendant DALE ORLOVSKY filed and caused to be filed with the Internal Revenue Service false and fraudulent Federal Forms 1120 and 941 that failed to disclose approximately \$192,987 in cash receipts, which were paid to the Cash Payroll Employees.
- f. On or about April 15, 2006, defendant DALE ORLOVSKY filed and caused to be filed with the Internal Revenue Service a false and fraudulent 2005 Individual Income Tax Return that failed to disclose approximately \$4,000 in gross income defendant DALE ORLOVSKY received in the calendar year 2005

All in violation of Title 18, United States Code,
Section 371.

COUNT TWO
(Attempt to Evade and Defeat Tax)

1. Paragraphs 1 through 12 of Count One are realleged and incorporated herein.

2. During the calendar year 2003, defendant DALE ORLOVSKY filed and caused to be filed 941 and 1120S tax forms that failed to report approximately \$125,892 in cash payments made by defendant DALE ORLOVSKY to the Cash Payroll Employees. This resulted in an underpayment of approximately \$31,850.68 in payroll taxes due and owing to the United States of America.

4. Well knowing and believing the foregoing facts, in or about 2003, in the District of New Jersey, defendant

DALE ORLOVSKY

did knowingly and willfully attempt to evade and defeat part of the tax due and owing to the United States, for the calendar year 2003, 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, false and fraudulent 2003 941 and 1120S tax forms.

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

COUNT THREE
(Attempt to Evade and Defeat Tax)

1. Paragraphs 1 through 12 of Count One are realleged and incorporated herein.

2. During the calendar year 2003, DALE ORLOVSKY earned income of approximately \$396,807. However, on the tax return that defendant DALE ORLOVSKY filed and caused to be filed for tax year 2003, defendant DALE ORLOVSKY claimed that he only earned income of approximately \$337,067, resulting in an understatement of approximately \$58,000. Upon the taxable income resulting from that understatement, there was due and owing to the United States of America an income tax of \$15,080.

4. Well knowing and believing the foregoing facts, on or about April 15, 2004, in the District of New Jersey, defendant

DALE ORLOVSKY

did knowingly and willfully attempt to evade and defeat part of the income tax due and owing by him to the United States, for the calendar year 2003, 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 2003 Form 1040 on his behalf.

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

COUNT FOUR
(Attempt to Evade and Defeat Tax)

1. Paragraphs 1 through 12 of Count One are realleged and incorporated herein.

2. During the calendar year 2004, defendant DALE ORLOVSKY filed and caused to be filed 941 and 1120S tax forms that failed to report approximately \$199,363 in cash payments made by defendant DALE ORLOVSKY to the Cash Payroll Employees. This resulted in an underpayment of approximately \$50,438.83 in payroll taxes due and owing to the United States of America.

4. Well knowing and believing the foregoing facts, in or about 2004, in the District of New Jersey, defendant

DALE ORLOVSKY

did knowingly and willfully attempt to evade and defeat part of the tax due and owing to the United States, for the calendar year 2004, 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, false and fraudulent 2004 941 and 1120S tax forms.

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

COUNT FIVE
(Attempt to Evade and Defeat Tax)

1. Paragraphs 1 through 12 of Count One are realleged and incorporated herein.

2. During the calendar year 2004, DALE ORLOVSKY earned income of approximately \$470,668. However, on the tax return that defendant DALE ORLOVSKY filed and caused to be filed for tax year 2004, defendant DALE ORLOVSKY claimed that he only earned income of approximately \$446,978, resulting in an understatement of approximately \$23,000. Upon the taxable income resulting from that understatement, there was due and owing to the United States of America an income tax of \$6,440.

4. Well knowing and believing the foregoing facts, on or about April 15, 2005, in the District of New Jersey, defendant

DALE ORLOVSKY

did knowingly and willfully attempt to evade and defeat part of the income tax due and owing by him to the United States, for the calendar year 2004, 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 2004 Form 1040 on his behalf.

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

COUNT SIX
(Attempt to Evade and Defeat Tax)

1. Paragraphs 1 through 12 of Count One are realleged and incorporated herein.

2. During the calendar year 2005, defendant DALE ORLOVSKY filed and caused to be filed 941 and 1120S tax forms that failed to report approximately \$192,987 in cash payments made by defendant DALE ORLOVSKY to the Cash Payroll Employees. This resulted in an underpayment of approximately \$48,825.71 in payroll taxes due and owing to the United States of America.

4. Well knowing and believing the foregoing facts, in or about 2005, in the District of New Jersey, defendant

DALE ORLOVSKY

did knowingly and willfully attempt to evade and defeat part of the 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, false and fraudulent 2005 941 and 1120S tax forms.

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

COUNT SEVEN
(Attempt to Evade and Defeat Tax)

1. Paragraphs 1 through 12 of Count One are realleged and incorporated herein.

2. During the calendar year 2005, DALE ORLOVSKY earned income of approximately \$383,391. However, on the tax return that defendant DALE ORLOVSKY filed and caused to be filed for tax year 2005, defendant ORLOVSKY claimed that he only earned income of approximately \$379,271, resulting in an understatement of approximately \$4,000. Upon the taxable income resulting from that understatement, there was due and owing to the United States of America an income tax of \$1,120.

4. Well knowing and believing the foregoing facts, on or about April 15, 2006, in the District of New Jersey, defendant

DALE ORLOVSKY

did knowingly and willfully attempt to evade and defeat part of the income tax due and owing by him 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 Form 1040 on his behalf.

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



PAUL J. FISHMAN
United States Attorney