

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

2007 NOV 15 P 4: 12

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

UNITED STATES OF AMERICA	:	No. 2:07CR88
	:	
	:	<u>SUPERSEDING INDICTMENT</u>
	:	
vs.	:	Count One
	:	18 U.S.C. § 371
	:	
DENNIS G. SARTAIN	:	Counts Two through Five
	:	26 U.S.C. § 7206(2)
	:	
	:	Count Six
	:	18 U.S.C. § 1014
	:	
	:	Count Seven
	:	18 U.S.C. § 1957
	:	
	:	Hon. Michael H. Watson

THE GRAND JURY CHARGES THAT:

COUNT ONE

(18 U.S.C. § 371 - Conspiracy to Impede and Impair the IRS)

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

1. The Internal Revenue Service ("IRS") was a constituent agency of the United States Department of Treasury responsible for administering and enforcing the tax laws of the United States and collecting the taxes owed to the Treasury of the United

States by its citizens.

2. The Internal Revenue Code and associated regulations required businesses to issue an IRS Form 1099 to each individual or independent contractor who had been paid \$600 or more in any one year reporting each recipient's name, address, social security number, and the amount paid to each recipient, and to file a copy of the Form 1099 with the IRS.

3. From 2000 through the date of this Indictment, defendant DENNIS G. SARTAIN, age 50, was a married, self-employed accountant, who performed financial, accounting, bookkeeping, and tax preparation services as an independent contractor for two individuals, TP and MP, several business entities owned or associated with these individuals, including Company #1 and Company #2, and some individuals associated with and/or related to TP and MP, such as business associate PM.

4. From in or around February 2000 through the date of this Indictment, Company #1 was a limited liability company owned and operated by TP and MP, which operated as a home building company of upscale homes and made payments to individuals and independent contractors in excess of \$600 per year. From its inception to the date of this Indictment, Company #1 conducted business operations from the personal residences of TP and MP.

5. During early 2004 to the date of this Indictment, Company #2 was a limited liability company owned and operated by TP and MP, which operated as a real estate

brokerage company and made payments to individuals and independent contractors in excess of \$600 per year. From its inception until in or about November 2005, Company #2 was operated out of a personal residence located at 4500 Dublin Road in Columbus, Ohio.

6. From in or around April 2003 through in or around November 2005, defendant DENNIS G. SARTAIN performed services for the entities and individuals associated with or related to TP and MP at a personal residence located at 4500 Dublin Road, Columbus, Ohio.

7. From in or around November 2005 through on or about March 13, 2006, defendant DENNIS G. SARTAIN performed services for the entities and individuals associated with or related to TP and MP exclusively from his personal residence at 3471 Mark Twain Drive, Hilliard, Ohio.

8. In addition to performing financial, accounting and bookkeeping services relating to TP and MP's businesses, defendant DENNIS G. SARTAIN prepared financial statements for use in applying for loans from financial institutions for TP and MP, their various businesses and entities, and business associate PM.

CONSPIRACY

9. From in or around October 2003 to the date of this Indictment, in the Southern District of Ohio, the defendant,

DENNIS G. SARTAIN

did knowingly combine, conspire, confederate, and agree with others, both known and unknown to the Grand Jury, to defraud the United States by impeding, impairing, obstructing, and defeating the lawful functions of the IRS in the ascertainment, computation, assessment and collection of individual income taxes.

THE OBJECTIVE OF THE CONSPIRACY

10. The objective of the conspiracy was to impede and impair the IRS from ascertaining, computing, and collecting the true and correct individual income tax liabilities of numerous individuals and independent contractors who had received payments in excess of \$600 from Company #1 and Company #2.

MANNER AND MEANS OF THE CONSPIRACY

Among the means by which defendant DENNIS G. SARTAIN and his coconspirators would and did carry out the conspiracy were the following:

11. It was a part of the conspiracy that the defendant and his coconspirators would recruit and hire realtors and others to work for Company #2 by agreeing to pay them all or a portion of their compensation “under the table.”

12. It was a further part of the conspiracy that the defendant and his coconspirators would not report to the IRS all of the payments made to the individuals and independent contractors working for Company #2 either:

- (a) by not preparing and filing with the IRS Forms 1099 reporting the payments made by Company #2; or

(b) by preparing and filing false and fraudulent Forms 1099 with the IRS which substantially underreported the amount of compensation paid to the individuals and independent contractors.

13. It was a further part of the conspiracy that the defendant and his coconspirators would not report all of the payments that Company #1 made to numerous individuals and independent contractors by not preparing and filing Forms 1099 with the IRS.

14. It was a further part of the conspiracy that the defendant and his coconspirators would prepare for filing, or cause to be prepared for filing, false and fraudulent Forms 1040, U.S. Individual Income Tax Returns, with the IRS, which substantially underreported the amount of income earned and taxes owed by the individuals and independent contractors who had received payments from Company #1 and Company #2.

15. It was a further part of the conspiracy that the defendant and his coconspirators would shred and discard documents and business records that were relevant to an ongoing criminal investigation.

16. It was a further part of the conspiracy that the defendant and his coconspirators would conceal from the IRS records maintained in electronic form on both computer hard drives and memory sticks or flash memory drives that were relevant to an ongoing criminal investigation.

OVERT ACTS

In furtherance of the conspiracy and in order to accomplish its objectives within the Southern District of Ohio and elsewhere, the defendant and his coconspirators committed and caused to be committed overt acts, including the following:

17. In or about February 2004, defendant DENNIS G. SARTAIN and/or his coconspirators prepared or caused to be prepared an employment agreement dated February 1, 2004 for independent contractor JE.

18. In or about August 2004, defendant DENNIS G. SARTAIN and/or his coconspirators prepared or caused to be prepared a new employment agreement backdated to February 1, 2004 between Company #2 and independent contractor JE.

19. In or about January 2005, defendant DENNIS G. SARTAIN prepared and delivered or caused to be delivered a Form 1099 to independent contractor JE at Company #2.

20. In or about May 2005, defendant DENNIS G. SARTAIN prepared and filed or caused to be filed a Form 1099 with the Internal Revenue Service reporting payments made to independent contractor JE.

21. In or about January 2005, defendant DENNIS G. SARTAIN prepared and delivered or caused to be delivered a Form 1099 to the sales manager of Company #2.

22. In or about April 4, 2005, the sales manager for Company #2 filed with the IRS a U.S. Individual Income Tax Return, Form 1040, for the tax year 2004.

23. In or about May 2005, defendant DENNIS G. SARTAIN prepared and filed or caused to be filed a Form 1099 with the IRS reporting payments made to the sales manager for Company #2.

24. In or about January 2005, defendant DENNIS G. SARTAIN prepared and delivered or caused to be delivered a Form 1099 to independent contractor CZ at Company #2.

25. In or about May 2005, defendant DENNIS G. SARTAIN prepared and filed or caused to be filed a Form 1099 with the Internal Revenue Service reporting payments made to independent contractor CZ.

26. In or about April, 2006, independent contractor CZ filed with the IRS a U.S. Individual Income Tax Return, Form 1040, for the tax year 2004.

On or about the following dates, defendant DENNIS G. SARTAIN filed with the IRS a U.S. Individual Income Tax Return, Form 1040, for the following tax years, for Dennis G. and Sherry L. Sartain, which underreported the payments he received from Company #1 or related entities owned and operated by TP and MP by the following amounts:

Para.	Date filed	Tax Year	Amount unreported
27.	08/15/04	2003	\$66,071
28.	04/15/05	2004	\$88,835

29. On or about March 14, 2006, defendant, DENNIS G. SARTAIN, shredded and discarded paper documents responsive to summonses served upon him by the IRS on

December 6, 2005 and February 3, 2006.

30. On or about April 06, 2006, the defendant, DENNIS G. SARTAIN, concealed from the IRS computers/memory sticks upon which were kept the information and electronic records responsive to the summonses served upon him on December 6, 2005 and February 3, 2006 by the IRS.

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

COUNT TWO

(26 U.S.C. § 7206(2) - Aiding and Assisting in the Preparation
and Filing of a False Tax Return)

31. The Grand Jury hereby incorporates and realleges the factual allegations contained in paragraphs 1 through 8 above.

32. On or about August 15, 2002, in the Southern District of Ohio, defendant DENNIS G. SARTAIN, then a resident of Hilliard, Ohio, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the IRS of a U.S. Individual Income Tax Return, Form 1040, of Dennis G. and Sherry L. Sartain, for the tax year ending December 31, 2001, which was false and fraudulent as to a material matter, in that said return reported:

- (a) Business income of \$7,044 on Line 12, and
- (b) Total income of \$33,435 on Line 22,

whereas, as the defendant then and there well knew and believed the amounts reported for business income and total income were understated because the reported amounts did not include approximately \$36,599 of income received from Company #1 during 2001.

All in violation of Title 26, United States Code, Section 7206(2).

COUNT THREE

(26 U.S.C. § 7206(2) - Aiding and Assisting in the Preparation
and Filing of a False Tax Return)

33. The Grand Jury hereby incorporates and realleges the factual allegations contained in paragraphs 1 through 8 above.

34. On or about September 5, 2003, in the Southern District of Ohio, defendant DENNIS G. SARTAIN, then a resident of Hilliard, Ohio, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the IRS of a U.S. Individual Income Tax Return, Form 1040, of Dennis G. and Sherry L. Sartain, for the tax year ending December 31, 2002, which was false and fraudulent as to a material matter, in that said return reported:

- (a) Business income or (loss) of \$(990) on Line 12,
- (b) Total income of \$(499) on Line 22, and
- (c) That defendant's occupation was "Unemployed,"

whereas, as the defendant then and there well knew and believed the amounts reported for business income and total income were understated because the reported amounts did not include approximately \$63,673 of income received from Company #1 during 2002 and the defendant was gainfully employed during 2002, as well as in September 2003 when the return was prepared.

All in violation of Title 26, United States Code, Section 7206(2).

COUNT FOUR

(26 U.S.C. § 7206(2) - Aiding and Assisting in the Preparation
and Filing of a False Tax Return)

35. The Grand Jury hereby incorporates and realleges the factual allegations contained in paragraphs 1 through 8 above.

36. On or about August 15, 2004, in the Southern District of Ohio, defendant DENNIS G. SARTAIN, then a resident of Hilliard, Ohio, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the IRS of a U.S. Individual Income Tax Return, Form 1040, of Dennis G. and Sherry L. Sartain, for the tax year ending December 31, 2003, which was false and fraudulent as to a material matter, in that said return reported:

- (a) Business income of \$1,958 on Line 12, and
- (b) Total income of \$2,360 on Line 22,

whereas, as the defendant then and there well knew and believed the amounts reported for business income and total income were understated because the reported amounts did not include approximately \$66,071 of income received from Company #1 during 2003.

All in violation of Title 26, United States Code, Section 7206(2).

COUNT FIVE

(26 U.S.C. § 7206(2) - Aiding and Assisting in the Preparation
and Filing of a False Tax Return)

37. The Grand Jury hereby incorporates and realleges the factual allegations contained in paragraphs 1 through 8 above.

38. On or about April 15, 2005, in the Southern District of Ohio, defendant DENNIS G. SARTAIN, then a resident of Hilliard, Ohio, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the IRS of a U.S. Individual Income Tax Return, Form 1040, of Dennis G. and Sherry L. Sartain, for the tax year ending December 31, 2004, which was false and fraudulent as to a material matter, in that said return reported:

- (a) Business income of \$6,870 on Line 12, and
- (b) Total income of \$6,870 on Line 22,
- (c) That defendant's occupation was "Unemployed,"

whereas, as the defendant then and there well knew and believed the amounts reported for business income and total income were understated because the reported amounts did not

include approximately \$88,835 of income received from Company #1 during 2004 and the defendant was gainfully employed during 2004, as well as in April 2005 when the return was prepared.

All in violation of Title 26, United States Code, Section 7206(2).

COUNT SIX

(18 U.S.C. § 1014 - False Statements upon a Loan
and Credit Application)

39. At all times material to this indictment, RBC Mortgage Company was a financial institution headquartered in Houston, Texas, and a wholly owned subsidiary of RBC Centura. RBC Centura was a brand name used by RBC Centura Banks, Inc., a wholly owned United States subsidiary of Royal Bank of Canada. The deposits of RBC Centura Banks, Inc. were insured by Federal Deposit Insurance Corporation.

40. In or around May 2005, in the Southern District of Ohio, defendant DENNIS G. SARTAIN knowingly made and caused the making of, and aided and abetted the making of, a false statement to RBC Mortgage Company for the purpose of influencing the actions of RBC Mortgage Company upon one or more loans, that is, a \$459,242.37 first loan and a \$114,515.34 second loan, obtained for the purchase of property at 6651 Drury Road, Dublin, Ohio 43016, to wit, defendant DENNIS G. SARTAIN and others, both known and unknown to the Grand Jury, submitted and caused to be submitted, and aided in the submission of a false loan application as well as supplemental materials, such as false payroll check-stubs, to RBC Mortgage company upon which applicant RS represented that she was an office manager for Your Home Source, LLC ("YHS") since the beginning of 2005, and that her gross monthly income from YHS was \$10,833, when, as the defendant knew, RS was not an office manager at YHS, RS was not a salaried employee of YHS, and was not earning \$10,833 monthly, but was rather a non-salaried independent contractor earning only commissions.

All in violation of Title 18, United States Code, Sections 1014 and 2.

COUNT SEVEN

(18 U.S.C. § 1957 - Laundering of Monetary Instruments)

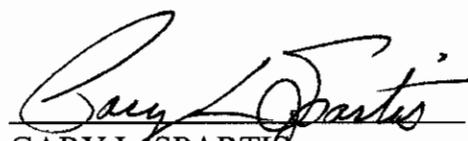
41. In or around June 2005, in the Southern District of Ohio, defendant DENNIS G. SARTAIN did knowingly engage, and did aid, abet, counsel, command, induce, procure and cause the engaging, in a monetary transaction by, through or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, such transaction involving the payment by check of \$54,295 to RS, such funds having been derived from specified unlawful activity, that is, loan and credit application fraud in violation of Title 18, United States Code, Section 1014.

All in violation of Title 18, United States Code, Sections 1957 and 2.

A TRUE BILL

/s/ _____
GRAND JURY FOREPERSON

GREGORY G. LOCKHART
UNITED STATES ATTORNEY


GARY L. SPARTIS
Deputy Criminal Chief