

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

Criminal No. 18 –

v.

18 U.S.C. § 371

AJAY BARTHWAL

INFORMATION

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

BACKGROUND

1. At all times relevant to this Information:

a. Defendant AJAY BARTHWAL was a licensed pharmacist in the State of New Jersey, and a resident of Morganville, New Jersey. Defendant AJAY BARTHWAL and his wife, were each listed with the New Jersey Secretary of State as being 50 percent owners of Old Bridge Drugs and Surgicals (“OBDS”) a retail pharmacy located in Old Bridge, New Jersey. However, in fact, defendant AJAY BARTHWAL was a one-third owner in OBDS, and two other individuals, including Dilip Naik and Bhavesh Mistry, were each also one-third owners and "silent partners" in OBDS.

b. Dilip Naik was formerly a licensed pharmacist in the State of New Jersey, a resident of Cranbury, New Jersey, and a one-third owner and “silent partner” in OBDS.

c. Bhavesh Mistry was a licensed physical therapist in the State of New Jersey, a resident of Morganville, New Jersey, and a one-third owner and "silent partner" in OBDS.

2. As OBDS was set up as a partnership, it was therefore required to file an IRS Form 1065 U.S. Partnership Income Tax Return ("IRS Form 1065"). Income received by the business would flow through to the individual partner's IRS Form 1040, U.S. Individual Income Tax Return ("IRS Form 1040"). As owners of OBDS, defendant AJAY BARTHWAL, Dilip Naik and Bhavesh Mistry were responsible for accurately reporting income received by OBDS to the Internal Revenue Service ("IRS"). Defendant AJAY BARTHWAL, Dilip Naik, and Bhavesh Mistry were also responsible for accurately reporting their respective personal income to the IRS each year on their IRS Form 1040s.

THE CONSPIRACY

3. From at least as early as on or about January 1, 2009, through on or about November 5, 2012, in Monmouth County and Middlesex County, in the District of New Jersey and elsewhere, defendant

AJAY BARTHWAL

did knowingly and willfully conspire and agree with Dilip Naik and Bhavesh Mistry and others to defraud the United States by impeding, impairing, obstructing, and defeating the lawful government function of the IRS in the ascertainment, assessment, computation and collection of revenue, to wit, income taxes.

OBJECT OF THE CONSPIRACY

4. It was the object of the conspiracy for defendant AJAY BARTHWAL, Dilip Naik and Bhavesh Mistry, to conceal from the IRS taxable revenue totaling approximately \$9,343,234 received by OBDS by submitting and causing to be submitted tax returns to the IRS, which substantially under-reported the gross receipts of OBDS and which substantially under-reported income received from OBDS for tax years 2009, 2010, and 2011.

MANNER AND MEANS

5. It was part of the conspiracy that:

a. In or about January 2009, defendant AJAY BARTHWAL and Dilip Naik agreed to cause business receipts from OBDS to be cashed at a check cashier located in Jersey City, New Jersey.

b. In or about the early part of 2009, defendant AJAY BARTHWAL, Dilip Naik and Bhavesh Mistry agreed that defendant AJAY BARTHWAL would deposit only certain OBDS business receipts into the OBDS operating account (the "Operating Account"), and that defendant AJAY BARTHWAL, Dilip Naik and Bhavesh Mistry would each receive approximately one-third of the proceeds of the OBDS business receipts that were not deposited into the Operating Account.

c. In or about the early part of 2009, defendant AJAY BARTHWAL, Dilip Naik and Bhavesh Mistry began hiding gross cash receipts from the operation of OBDS from the IRS, and defendant AJAY BARTHWAL, Dilip Naik and Bhavesh Mistry agreed that defendant AJAY BARTHWAL would pay taxes only on the OBDS business receipts that were deposited into the Operating Account.

d. From at least as early as in or about January 2009, defendant AJAY BARTHWAL, Dilip Naik, and Bhavesh Mistry failed to report the cash payments and other income they received from the gross receipts of OBDS on their respective IRS Forms 1040.

e. From at least as early as on or about May 31, 2010, through at least as late as April 2, 2012, defendant AJAY BARTHWAL filed and caused to be filed false IRS Forms 1065 for OBDS for tax years 2009 and 2011.

f. From at least as early as on or about June 7, 2010, through at least as late as May 14, 2012, defendant AJAY BARTHWAL, Dilip Naik, and Bhavesh Mistry each filed and caused to be filed with the IRS, false IRS Forms 1040 for tax years 2009, 2010, and 2011.

g. Based on this conduct, defendant AJAY BARTHWAL, Dilip Naik, and Bhavesh Mistry intentionally did not pay approximately \$3,147,946 in taxes that would have been due and owing to the IRS.

OVERT ACTS

6. In furtherance of the conspiracy and to effect its unlawful objectives, defendant AJAY BARTHWAL and his coconspirators committed, and caused to be committed, the following overt acts in the District of New Jersey and elsewhere:

a. On or about May 31, 2010, in Monmouth County, New Jersey, defendant AJAY BARTHWAL filed and caused to be filed a false and fraudulent 2009 IRS Form 1065, which substantially understated the gross receipts of OBDS.

b. On or about August 2, 2010, in Middlesex County, New Jersey, Dilip Naik filed and caused to be filed a false and fraudulent 2009 IRS Form 1040, which

substantially understated the amount of income that he received from OBDS.

c. On or about May 31, 2010, in Monmouth County, New Jersey, defendant AJAY BARTHWAL filed and caused to be filed a false and fraudulent 2009 IRS Form 1040, which substantially understated the amount of income that he received from OBDS.

d. On or about June 7, 2010, in Monmouth County, New Jersey, Bhavesh Mistry filed and caused to be filed a false and fraudulent 2009 IRS Form 1040, which substantially understated the amount of income that he received from OBDS.

e. On or about April 15, 2011, in Middlesex County, New Jersey, defendant AJAY BARTHWAL, Dilip Naik, and Bhavesh Mistry failed to file a 2010 IRS Form 1065, despite having received substantial gross receipts from OBDS.

f. On or about September 12, 2011, in Middlesex County, New Jersey, Dilip Naik filed and caused to be filed a false and fraudulent 2010 IRS Form 1040, which substantially understated the amount of income that he received from OBDS.

g. On or about July 11, 2011, in Monmouth County, New Jersey, defendant AJAY BARTHWAL filed and caused to be filed a false and fraudulent 2010 IRS Form 1040, which substantially understated the amount of income that he received from OBDS.

h. On or about May 30, 2011, in Monmouth County, New Jersey, Bhavesh Mistry filed and caused to be filed a false and fraudulent 2010 IRS Form 1040, which substantially understated the amount of income that he received from OBDS.

i. On or about April 2, 2012, in Monmouth County, New Jersey, defendant AJAY BARTHWAL filed and caused to be filed a false and fraudulent 2011 IRS Form 1065, which substantially understated the gross receipts of OBDS.

j. On or about September 3, 2012, in Middlesex County, New Jersey, Dilip Naik filed and caused to be filed a false and fraudulent 2011 IRS Form 1040, which substantially understated the amount of income that he received from OBDS.

k. On or about November 5, 2012, in Monmouth County, New Jersey, defendant AJAY BARTHWAL filed and caused to be filed a false and fraudulent 2011 IRS Form 1040, which substantially understated the amount of income that he received from OBDS.

l. On or about May 14, 2012, in Monmouth County, New Jersey, Bhavesh Mistry filed and caused to be filed a false and fraudulent 2011 IRS Form 1040, which substantially understated the amount of income that he received from OBDS.

In violation of Title 18, United States Code, Section 371.


CRAIG CARPENITO
United States Attorney

CASE NUMBER :

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

AJAY BARTHWAL

INFORMATION FOR

18 U.S.C § 371

CRAIG CARPENITO
UNITED STATES ATTORNEY
FOR THE DISTRICT OF NEW JERSEY

DEBORAH J. GANNETT
ASSISTANT U.S. ATTORNEY
NEWARK, NEW JERSEY
(973) 645-2781
