

STATE OF NEW YORK BINGHAMTON CITY COURT
COUNTY OF BROOME CITY OF BINGHAMTON

-----X
THE PEOPLE OF THE STATE OF NEW YORK

-against-

**PLEA
AGREEMENT**

BERT J. ADAMS (DOB 12/30/1984),

Defendant.

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1. I, BERT J. ADAMS, the undersigned defendant, have been charged in Binghamton City Court, City of Binghamton, County of Broome, State of New York, by Misdemeanor Complaint, with one count of ATTEMPTED COMBINATION IN RESTRAINT OF TRADE AND COMPETITION, a class "A" misdemeanor, in violation of Penal Law § 110 and General Business Law §§ 340 and 341, also known as an attempted violation of New York State's Donnelly Act.

2. My attorney is David R. Ross, Esq., who is present in the court with me today. I am satisfied with the representation provided to me by my attorney. I understand that I have a right to have an attorney throughout the prosecution and trial of these charges and if I cannot afford an attorney, one would be appointed for me.

3. I have been advised of, and understand, the nature of the charges against me, the elements of the offenses with which I am charged, and the range of permissible sentences. The maximum permissible sentence for the crime of Attempted Combination in Restraint of Trade and Competition in violation of Penal Law § 110 and General Business Law §§ 340 and 341 is a local jail sentence of one year and a fine of one hundred thousand dollars (\$100,000.00).

4. By pleading guilty I am giving up the following rights, which I have discussed with my attorney:

- a. I understand that by pleading guilty I am giving up my right to a trial by a jury drawn from a broad cross-section of the community.

- b. I understand that by pleading guilty I am giving up my right to have the People produce witnesses to testify against me.
- c. I understand that by pleading guilty I am giving up my right to have my attorney cross-examine any witnesses who may testify against me.
- d. I understand that by pleading guilty I am giving up my right to have my attorney produce witnesses to testify for me.
- e. I understand that by pleading guilty I am giving up my right to remain silent and my right to either testify or not testify at trial.
- f. I understand that by pleading guilty I am giving up my right to have the People prove my guilt beyond a reasonable doubt by a unanimous verdict of all jurors at trial.
- g. I understand that by pleading guilty my plea will operate just like a conviction of guilty after a jury trial.
- h. I understand that by pleading guilty, if I have a defense to this charge, I am giving up my right to present that defense at trial.
- i. I understand that by pleading guilty I am giving up my right to claim that the police did anything illegal in regard to this charge, and my right to a hearing to determine if that police conduct was, in fact, illegal.

5. I acknowledge that I have consulted with my attorney about the immigration consequences of my guilty plea, and I have been advised that if I am not a United States citizen, my guilty plea may subject me to immigration proceedings and removal or deportation from the United States. I understand that the immigration consequences of my plea will be imposed in a separate proceeding before the immigration authorities. I wish to plead guilty to the charged offense regardless of any immigration consequences of my guilty plea, even if my guilty plea will cause my removal from the United States. I understand that I am bound by my guilty plea regardless of any immigration consequences of the plea. Accordingly, I waive any and all challenges to my guilty plea and sentence based on any immigration consequences, and agree not

to seek to withdraw my guilty plea, or to file a direct appeal or any kind of collateral attack challenging my guilty plea, conviction, or sentence, based on any immigration consequences of my guilty plea.

6. Further, in consideration for and as part of the plea agreement in this matter, I hereby waive and relinquish my right to appeal from any judgment of conviction, and from any proceedings herein that may result from this prosecution. I have been advised of my right to appeal, my right to be represented by an attorney on appeal, and my right to have an attorney assigned for me on appeal if I cannot afford one. It is my understanding and intention that the plea agreement in this matter will be a complete and final disposition of the matter. I make this waiver knowingly and voluntarily after having been fully advised of my rights by the Court and having had a full and fair opportunity to discuss these matters with my attorney. I agree to execute the written waiver of appeal provided to me by Office of the New York State Attorney General.

7. I hereby agree to enter a plea of guilty in accordance with the terms of the plea offer which has been made to me, having consulted with my attorney and having been advised of all of the rights listed above.

8. I will plead guilty to one count of Attempted Combination in Restraint of Trade and Competition in violation of Penal Law § 110 and General Business Law §§ 340 and 341, also known as an attempted violation of New York State's Donnelly Act.

9. At the time of my plea, I will, under oath, admit to the following:

- a. I am currently employed by Bert Adams, Disposal, Inc. ("Bert Adams Disposal").
- b. Between July 2014 and May 2016 I was employed by Bert Adams Disposal.
- c. In or around July 2014 through in or around May 2016, I, along with others at Bert Adams Disposal, attempted to enter into collusive contracts, agreements, arrangements, or combinations thereof (hereafter, "arrangements"), with individuals from Taylor Garbage Service, Inc. ("Taylor Garbage"), to rig bids for waste-hauling, recycling, and related services, in an attempt to restrain trade and competition in the waste-hauling industry.
- d. In so doing, I attempted to deprive customers of their right to free competition and required customers to pay excessive prices for waste-hauling and related services.

- e. Specifically, in or about July 2014, I met with an employee of Taylor Garbage, and attempted to enter into an arrangement in which we would not pursue the business of each other's current customers through active solicitation or through price competition, including customers located in the City of Binghamton and elsewhere.
- f. This attempted arrangement between myself, others at Bert Adams Disposal, and Taylor Garbage included an agreement to rig bids in the City of Binghamton and elsewhere in Broome County, by:
 - i. agreeing in advance which company would win a particular bid and then either agreeing not to submit a bid to ensure that the agreed-upon company would win the contract, or by submitting deliberately inflated bids and price quotes to prospective customers to ensure that the incumbent would keep its customers; and
 - ii. agreeing to fix or increase the prices of products and services; and
 - iii. agreeing in certain cases not to compete with one another with respect to specified customers and geographical territories.

10. In accordance with this plea, I understand that as part of my sentence I will be ordered to pay a thirty-seven thousand five hundred dollar (\$37,500.00) fine to the State of New York.

11. I further understand that in accordance with this plea, if I pay the above-referenced fine in total on or before the date of my sentencing, I will be sentenced to a one-year conditional discharge.

12. I further understand that in accordance with this plea, if I do not pay the above-referenced fine in total on or before the date of my sentencing, I will be sentenced to three years of probation.

13. I understand further that this plea agreement in no way releases me from any civil liability that I may have, *except that the OAG will not pursue a civil action pursuant to the*

14. I hereby agree to enter a plea of guilty in accordance with the terms of the plea offer which has been made to me, having consulted with my attorney and having been advised of all of the rights listed above.

*6BL 340/3
for civil
dispute
in this
plea
agreement
or in the
merit
complaint*

15. I understand these rights, and the terms and conditions of this Plea Agreement, which I have read completely. My plea of guilty is given freely, voluntarily, knowingly, and without coercion of any kind. No threats or promises have been made to me to induce me to plead guilty.

16. I am not under the influence of alcohol, drugs, or medication, nor is there any other mental or physical impairment, which prevents me from understanding these proceedings here or from entering this plea knowingly, intelligently and voluntarily. My mind is clear and my judgment is sound.

17. This agreement is limited to the Office of the New York State Attorney General and cannot bind other government agencies.

Dated: Binghamton, New York
April 9, 2018

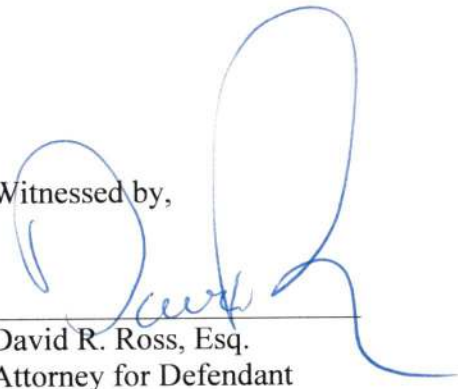


Bert J. Adams
Defendant

Agreed by: 

Mary A. Gorman
Assistant Attorney General
Public Integrity Bureau

Witnessed by,



David R. Ross, Esq.
Attorney for Defendant

The above is hereby approved by,



Hon. CAROL A. COCCHIOLA
Binghamton City Court Judge