

STATE OF NEW YORK
BROOME COUNTY COURT
COUNTY OF BROOME

THE PEOPLE OF THE STATE OF NEW YORK

-against-

BERT ADAMS DISPOSAL, INC.

Defendant.

PLEA AGREEMENT

STATE OF NEW YORK)
COUNTY OF BROOME) ss.:

1. This is a plea agreement (“Agreement”) between the Office of the Attorney General of the State of New York (“OAG”) and the defendant, Bert Adams, Disposal, Inc. (“Bert Adams Disposal”).

2. BERT ADAMS DISPOSAL, the undersigned defendant, has been charged in Broome County Court, County of Broome, State of New York, by Superior Court Information Number 18-158 (AG), with one count of COMBINATION IN RESTRAINT OF TRADE AND COMPETITION, a class “E” felony, in violation of General Business Law §§ 340 and 341, also known as a violation of New York State’s Donnelly Act.

3. Bert Adams Disposal is represented by MICHAEL A. BERLIN, Esq., who is present in the court today. Bert Adams Disposal is fully satisfied with his representation. Bert Adams Disposal understands that it must be represented by an attorney throughout the prosecution and trial of these charges.

4. MICHAEL A. BERLIN, ESQ. represents that he is an attorney licensed to practice law in the courts of New York State and is counsel duly authorized to represent and enter a guilty plea for the defendant Bert Adams, Disposal, pursuant to this Agreement, as described below.

5. Bert Adams Disposal has been advised by its attorney of, and understands the nature of the charges against it, the elements of the offenses with which it is charged, and the range of permissible sentences. The maximum permissible sentence for a corporation for the crime of Combination in Restraint of Trade and Competition in violation of General Business Law §§ 340 and 341 is a sentence of a three-year conditional discharge and a fine of one million dollars (\$1,000,000.00) or double the amount of the defendant's gain from the crime, whichever is greater.

6. By pleading guilty, Bert Adams Disposal is giving up the following rights, which it has discussed with its attorney:

- a. Bert Adams Disposal understands that by pleading guilty it is giving up its right to a trial by a jury drawn from a broad cross-section of the community.
- b. Bert Adams Disposal understands that by pleading guilty it is giving up its right to have the People produce witnesses to testify against it.
- c. Bert Adams Disposal understands that by pleading guilty it is giving up its right to have its attorney cross-examine any witnesses who may testify against it.
- d. Bert Adams Disposal understands that by pleading guilty it is giving up its right to have its attorney produce witnesses to testify for it.
- e. Bert Adams Disposal understands that by pleading guilty it is giving up its right to remain silent and its right to either testify or not testify at trial.
- f. Bert Adams Disposal understands that by pleading guilty it is giving up its right to have the People prove its guilt beyond a reasonable doubt by a unanimous verdict of all jurors at trial.
- g. Bert Adams Disposal understands that by pleading guilty its plea will operate just like a conviction of guilty after a jury trial.

h. Bert Adams Disposal understands that by pleading guilty, if it has a defense to this charge, it is giving up its right to present that defense at trial.

7. Bert Adams Disposal acknowledges that it has consulted with its attorney about the consequences this guilty plea may have on the corporation, including revocation or suspension of any licenses, among other possible collateral consequences, and wishes to plead guilty to the charged offense regardless of any consequences of the plea. Accordingly, Bert Adams Disposal waives any and all challenges to its guilty plea and sentence. Bert Adams Disposal further agrees not to seek to withdraw its guilty plea or to file a direct appeal or any kind of collateral attack challenging its guilty plea, conviction, or sentence, based on any collateral consequences of any kind of its guilty plea.

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

9. Bert Adams Disposal hereby agrees to enter a plea of guilty in accordance with the terms of the plea offer which has been made to it, having consulted with its attorney and having been advised of all of the rights listed above.

10. Bert Adams Disposal will plead guilty to one count of Combination in Restraint of Trade and Competition in violation of General Business Law §§ 340 and 341, also known as a violation of New York State's Donnelly Act.

11. At the time of its plea, counsel for Bert Adams Disposal, Michael A. Berlin, Esq., will allocute on behalf of Bert Adams Disposal and, under oath, admit to the following:

- a. Bert Adams Disposal, Inc. admits that, in or around July 2014 through in or around May 2016, in the County of Broome, State of New York, it knowingly and intentionally entered into collusive contracts, agreements, arrangements, or combinations thereof (hereinafter “arrangements”), with Taylor Garbage Service, Inc. (“Taylor Garbage”), to rig bids for waste-hauling, recycling, and related services.
- b. Bert Adams Disposal, Inc. further admits that in entering into these arrangements, it deprived customers of their right to free competition and in turn forced customers to pay excessive prices for waste-hauling and related services.
- c. Bert Adams Disposal further admits that it benefitted financially from this collusive conduct.
- d. Bert Adams Disposal further admits that the conduct it has admitted today is a violation of General Business Law §§ 340 and 341, also known as New York State’s Donnelly Act.

12. In accordance with this plea, Bert Adams Disposal, will be sentenced to a three-year conditional discharge.

13. Bert Adams Disposal further understands that as part of its sentence, it will be ordered to pay an eight hundred fifty thousand dollar (\$850,000.00) fine to the State of New York.

14. Bert Adams Disposal agrees to pay this fine pursuant to the following schedule, with all payments made within the three-year conditional discharge time period:

- a. Two hundred fifty thousand dollars (\$250,000.00) on or before the date of its plea (the “First Payment”);
- b. Two hundred thousand dollars (\$200,000.00) within one (1) year of the First Payment (the “Second Payment”);
- c. Two hundred thousand dollars (\$200,000.00) within one (1) year of the Second Payment (the “Third Payment”); and
- d. Two hundred thousand dollars (\$200,000.00) within one (1) year of the Third Payment.

15. Bert Adams Disposal understands that in the event it fails to timely and properly make payment as required by paragraphs 13 and 14, it will have violated its Conditional Discharge and may be re-sentenced, possibly facing additional penalties.

16. To secure the payment described by paragraphs 13 and 14, Bert Adams Disposal will execute and deliver, on or before the date of its plea in this matter, the accompanying Affidavit for Judgment by Confession (attached hereto as Exhibit A), confessing judgment for the Monetary Relief Amount of eight hundred fifty thousand dollars (\$850,000.00), plus collection fees of twenty two percent (22%) of any unpaid Monetary Relief Amount at the time of any subsequent default, plus statutory costs of \$15.00. The OAG will reduce the Monetary Relief Amount by the principal amount of payments made by Bert Adams Disposal to the OAG to calculate the Unpaid Monetary Relief Amount at the time of any subsequent default.

17. In the event that Bert Adams Disposal fails to timely and properly make payment as required by paragraphs 13 and 14, the OAG shall provide Bert Adams Disposal with written notice, by first class mail, of such failure. If Bert Adams Disposal does not cure such failure within 30 days of the OAG's written notice, the OAG may file and enter the applicable Affidavit for Judgment by Confession as a judgment against Bert Adams Disposal, at any time, and without further notice, for the balance owed at the time of default, less any payments made prior to default, plus the collection fees and statutory costs described above.

18. Bert Adams Disposal represents and warrants that the signatory on the attached Affidavit for Judgment by Confession below has been duly authorized to and has the authority to sign an Affidavit for Judgment by Confession on behalf of Bert Adams Disposal, its Officers and Directors, as per the corporate resolution (attached hereto as Exhibit B).

19. Bert Adams Disposal understands and agrees that the payments described in

paragraphs 13 and 14 are not dischargeable in bankruptcy.

20. Bert Adams Disposal understands further that this plea agreement in no way releases it from any civil liability to third parties that it may have.

21. I understand that the Office of the Attorney General will not pursue a civil action pursuant to General Business Law §§ 340 and 341 against Bert Adams Disposal for conduct, during the referenced time period of July 2014 through May 2016, described in this plea agreement or in the corresponding felony complaint filed on April 4, 2018.

22. Bert Adams Disposal hereby agrees to enter a plea of guilty in accordance with the terms of the plea offer which has been made to it, having consulted with its attorney and having been advised of all of the rights listed above.

23. Michael A. Berlin, Esq. hereby agrees to enter a plea of guilty on behalf on Bert Adams Disposal in accordance with the plea offer which has been made to Bert Adams Disposal.

24. Michael A. Berlin, Esq. understands that he, or a duly authorized representative of the company, must physically appear as counsel for Bert Adams Disposal at all of its court dates as specified by this Court.

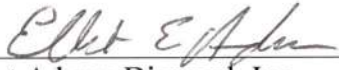
25. Bert Adams Disposal understands these rights, and the terms and conditions of this Plea Agreement, which it and Michael A. Berlin, Esq. have read completely. Michael A. Berlin, Esq.'s plea of guilty on behalf of Bert Adams Disposal is given freely, voluntarily, knowingly, and without coercion of any kind. No threats or promises have been made to Bert Adams Disposal or Michael A. Berlin, Esq., to induce it to plead guilty.

26. Michael A. Berlin, Esq. is not under the influence of alcohol, drugs, or medication, nor is there any other mental or physical impairment, which prevents him from understanding these proceedings here or from entering this plea knowingly, intelligently and voluntarily. Michael A. Berlin's mind is clear and his judgment is sound.


27. Bert Adams Disposal agrees to waive and hereby waives all defenses based on the statute of limitations, pre-indictment delay, speedy arraignment, or speedy trial, under Article 30 of the New York State Criminal Procedure Law, the New York State Constitution, the United States Constitution, and case law, in the event that: (1) the convictions are later vacated for any reason, (2) it violates this Agreement, or (3) the plea is not accepted by the Court or the Court permits the corporation to withdraw its previously entered plea of guilty.


28. 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 Adams Disposal, Inc.
By: Elbert E. Adams, Owner

Approved and Reviewed by:


Michael A. Berlin, Esq.
Attorney for Defendant

Agreed by: 
Mary A. Gorman
Assistant Attorney General
Public Integrity Bureau

The above is hereby approved by,


Hon. Joseph F. Cawley
Broome County Court Judge