

STATE OF NEW YORK  
BROOME COUNTY COURT  
COUNTY OF BROOME

THE PEOPLE OF THE STATE OF NEW YORK

-against-

**PLEA AGREEMENT**

ELBERT E. ADAMS (DOB 01/02/1953)

Defendant.

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

1. I, ELBERT E. ADAMS, the undersigned defendant, have been charged in Broome County Court, County of Broome, State of New York, by Superior Court Information Number 18-157(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.

2. My attorney is Michael A. Berlin, 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 Combination in Restraint of Trade and Competition in violation of General Business Law §§ 340 and 341 is an indeterminate state prison sentence of one-and-one-third to four years and a fine of one hundred thousand dollars (\$100,000.00) or double the amount of the defendant's gain from the crime, whichever is greater.

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.

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 the 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 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.

9. At the time of my plea, I will, under oath, admit to the following:
- a. I am currently the seventy-five percent (75%) owner and the Chief Executive Officer of Bert Adams, Disposal, Inc. (“Bert Adams Disposal”).
  - b. Between July 2014 and May 2016 I was the seventy-five percent (75%) owner and the Chief Executive Officer of Bert Adams, Disposal.
  - c. In or around July 2014 through in or around May 2016, I, along with others at Bert Adams Disposal, knowingly and intentionally entered 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.
  - d. These arrangements included, among others,
    - 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 not to pursue the business of each other’s current customers through active solicitation or through price competition.
  - e. In entering into these arrangements, I deprived customers of their right to free competition and in turn forced customers to pay excessive prices for waste-hauling and related services.
  - f. I, along with others at Bert Adams Disposal, carried out this collusive conduct by various means, including through telephone calls and text messages in which I and others exchanged price information and arranged bids with Taylor Garbage so that neither company would offer a more favorable price to the other’s existing customers.

- g. As the majority owner and Chief Executive Officer of Bert Adams Disposal, I had primary supervisory responsibility for and was actively involved in managing the day-to-day operations of Bert Adams Disposal, including managing all aspects of subordinate employees and managing the pricing and bidding activities of Bert Adams Disposal.
- h. As the majority owner and Chief Executive Officer of Bert Adams Disposal, I was aware of and approved of the collusive arrangements to rig bids and restrain competition described previously.
- i. I understand that the conduct I have admitted today is a violation of General Business Law §§ 340 and 341, also known as New York State's Donnelly Act.

10. In accordance with this plea, I will be sentenced to five years of probation. I further understand that as part of my sentence, I will be ordered to pay a seventy-five thousand dollar (\$75,000.00) fine to the State of New York.

11. In accordance with this plea, I understand that if I pay the above-referenced fine in total on or before the date of my sentencing, the Office of the New York State Attorney General will recommend that I receive a sentence of a three-year conditional discharge in lieu of probation.

12. I understand further that this plea agreement in no way releases me from any civil liability to third parties that I may have.

13. I understand that the Office of the Attorney General will not pursue a civil action pursuant to General Business Law §§ 340 and 341 against me 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.


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.


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


  
Elbert E. Adams  
Defendant

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

Witnessed by,

  
Michael A. Berlin, Esq.  
Attorney for Defendant

The above is hereby approved by,

  
Hon. Joseph F. Cawley  
Broome County Court Judge