

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

THE PEOPLE OF THE STATE OF NEW YORK

-against-

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

Defendant.

FELONY COMPLAINT

CL 002546 18

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

JOEL CORDONE, an Investigator with the Criminal Division of the New York State Office of the Attorney General ("OAG"), deposes and says that the defendant committed the following crime:

COUNT ONE

COMBINATION IN RESTRAINT OF TRADE AND COMPETITION, a class E felony, in violation of New York State General Business Law §§ 340 and 341, in that the defendant, in or about July 2014 through in or about May 2016, in the City of Binghamton and County of Broome, knowingly and intentionally entered into or engaged in or continued to engage in, a contract, agreement, arrangement, or combination in unreasonable restraint of competition and the free exercise of activity in the conduct of business, trade, and commerce, *to wit*, in or about the referenced time period, in the City of Binghamton and throughout Broome County, the defendant, acting in concert with others, knowingly and intentionally entered into collusive contracts, agreements, arrangements, or combinations thereof, to rig bids for waste-hauling, recycling, and related services, depriving

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customers of their right to free competition and in turn forcing customers to pay excessive prices for services.

This Complaint is based on information and belief, the sources of which are my investigation conducted on behalf of the OAG, including but not limited to, the review and analysis of business records, telephone records and other records, interviews of witnesses, and other investigative techniques, among other sources.

FACTUAL BASIS

This crime was committed under the following circumstances:

1. Bert Adams Disposal, Inc. ("Bert Adams Disposal") is a family-owned corporation established in 1976, incorporated under the laws of New York State, and is located at 521 Main Street, Chenango Bridge, New York 13745 in Broome County.
2. Bert Adams Disposal provides various waste-management services, including trash collection, transfer and disposal, recycling services, commercial dumpsters, roll-off container rentals, and delivery and pick-up.
3. Bert Adams Disposal serves a variety of residential, commercial and municipal customers in New York State, including Broome, Chenango, Delaware, Cortland, Madison and Otsego counties.
4. Elbert E. Adams, ("Bert Adams"), DOB 01/02/1953, is, and was during the relevant and referenced time period, the majority owner (75%) and Chief Executive Officer of Bert Adams Disposal, and served and continues to serve in a supervisory and managerial capacity over subordinate employees.

5. Witness interviews, corroborated by my review of phone records and business records, revealed that in or around July 2014, Bert Adams and others from Bert Adams Disposal, conspired with individuals from competitor Taylor Garbage Service, Inc. (“Taylor Garbage”) to rig bids, allocate customers and fix prices for Bert Adams Disposal’s waste hauling and recycling services.
6. For example, I reviewed phone records that revealed the following text messages between Bert Adams and Robert Taylor, President of Taylor Garbage, indicating the approximate start to the conspiracy:

From	To	Date	Time	Content
Robert Taylor	Bert Adams	07/16/14	2:54:56	Just wondering if you would be willing to sit down sometime with Pat and I and talk about things in the battle field. I'd like to try to work out a plan to work with each other rather than working against each other. Because the customer is the only one that wins when we're at each other's throat. Give it some thought and let me know. BT
Bert Adams	Bob Taylor	07/16/14	3:04:10	Yes anytime just tell me where I got to meet you
Robert Taylor	Bert Adams	07/16/14	3:10:45	Good, let me check the schedule lol and get back to you. Probably early next week sometime

7. Witness interviews, corroborated by my review of business records and phone records, revealed that Bert Adams and others at Bert Adams Disposal and Taylor Garbage continued this conspiracy through in-person meetings, phone calls, and text messages.

8. The investigation revealed that as part of the conspiracy, Bert Adams and others at Bert Adams Disposal, along with individuals from Taylor Garbage participated in a form of bid rigging known as “cover bidding” which occurs when a competitor deliberately submits an artificially high bid they believe the customer will reject, thus (a) creating the appearance that the winner’s bid is legitimately competitive and (b) ensuring that the agreed-upon competitor will win the bid.
9. The investigation revealed that Bert Adams and others at Bert Adams Disposal, along with individuals from Taylor Garbage, regularly submitted inflated bids and price quotes to ensure that the other company would keep its current customers without raising suspicion by being the only bidder.
10. For example, the investigation revealed that in 2015, the Airport Inn Bar & Grill, a restaurant located in Binghamton, New York and a Bert Adams Disposal customer, requested a price quote from Taylor Garbage. Bert Adams Disposal and Taylor Garbage agreed that Taylor Garbage would submit an inflated quote to ensure that Bert Adams Disposal kept the account.
11. The investigation further revealed that as part of the conspiracy, Bert Adams and others at Bert Adams Disposal, along with individuals from Taylor Garbage participated in a form of bid rigging known as “bid suppression” which occurs when a competitor agrees that it will not submit a bid to ensure that its competitor will win a contract.
12. For example, the investigation revealed that in 2015, Pier 1 Imports in Vestal, New York, a Bert Adams customer, requested a price quote from Taylor Garbage. Taylor Garbage and Bert Adams Disposal agreed that Taylor Garbage would not submit a quote to Pier 1, ensuring that Bert Adams retained the account.

13. The investigation further revealed that as part of the conspiracy, Bert Adams and others at Bert Adams Disposal, along with individuals from Taylor Garbage participated in “price fixing,” which occurs when competitors enter into a contract, agreement, arrangement, or combination thereof to fix the price of a product or service, thereby inflating the prices paid by consumers.
14. For example, my review of phone records revealed the following text exchange between Bert Adams and Robert Taylor:

From	To	Date	Time	Content
Robert Taylor	Bert Adams	05/04/15	4:28:48	Did I hear a rumor that your going to raise your residential rates?
Bert Adams	Bob Taylor	05/04/15	4:31:01	Yes but I'll let you know when and how much
Robert Taylor	Bert Adams	05/04/15	4:34:26	Good. I'll get start working on pat now and in time I'll get her to think it's her idea and join in on the raise.

15. The investigation further revealed that as part of the conspiracy, Bert Adams and others at Bert Adams Disposal, along with individuals from Taylor Garbage participated in “market allocation,” which includes contracts, agreements, arrangements or combination thereof, between competitors, that they will not compete with respect to specified customers, geographical territories or products.
16. For example, the investigation revealed that in March 2015, Broome Developmental Services issued a bid for its satellite locations across several counties. Bert Adams' Disposal and Taylor Garbage allocated the Broome County locations among themselves

and either bid or refrained from bidding accordingly. Outside of Broome County, the companies allocated accounts along a geographic boundary. Specifically, Taylor Garbage placed “no bids” on Chenango County, Delaware County and Otsego County while Bert Adams Disposal placed bids within each of those locations. Meanwhile, Bert Adams Disposal did not bid on any Tioga County locations, while Taylor Garbage placed bids for all Tioga County locations.

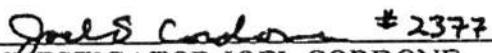
17. The records I reviewed, along with testimony from witnesses, revealed that as a result of the above-referenced collusion customers were deprived of their right to free competition and forced to pay excessive prices for waste-hauling services.
18. The records I reviewed, along with testimony from witnesses, revealed that as a result of the above-referenced collusion, Bert Adams Disposal benefitted financially.
19. As the majority owner and Chief Executive Officer of Bert Adams Disposal, Bert Adams 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.
20. Witness interviews, corroborated by my review of business records and phone records, revealed that Bert Adams was critical to the initiation of the conspiracy, was aware of and approved the contracts, agreements, arrangements or combination thereof throughout the course of the conspiracy, and was a necessary party to the ultimate agreement to conclude the conspiracy with Taylor Garbage.
21. As such, Bert Adams, acting in concert with others, knowingly and intentionally, entered into collusive contracts, agreements, arrangements, or combinations thereof, to rig bids for

waste-hauling, recycling, and related services, depriving customers of their right to free competition and in turn forcing customers to pay excessive prices for services.

WHEREFORE I REQUEST THAT AN ARREST WARRANT BE ISSUED FOR DEFENDANT ELBERT E. ADAMS.

Notice: False statements made herein are punishable as a Class A misdemeanor pursuant to New York State Penal Law § 210.45

Dated: April 4th, 2018

 # 2377

INVESTIGATOR JOEL CORDONE
New York State Attorney General's Office

