

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL NO.

CHARLES FERRELL TRIMM

15 U.S.C. § 1
18 U.S.C. § 1349

PLEA AGREEMENT

The United States of America and Charles Ferrell Trimm (“defendant”) hereby enter into the following Plea Agreement pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure (“Fed. R. Crim. P.”). Hereinafter, the term “Plea Agreement” refers to this Plea Agreement and the accompanying Plea Supplement filed under seal on the same date.

RIGHTS OF DEFENDANT

1. The defendant understands his rights:
 - (a) to be represented by an attorney;
 - (b) to be charged by Indictment;
 - (c) to plead not guilty to any criminal charge brought against him;
 - (d) to have a trial by jury, at which he would be presumed not guilty of the charge and the United States would have to prove every essential element of the charged offense beyond a reasonable doubt for him to be found guilty;
 - (e) to confront and cross-examine witnesses against him and to subpoena witnesses in his defense at trial;
 - (f) not to be compelled to incriminate himself;

- (g) to appeal his conviction, if he is found guilty; and
- (h) to appeal the imposition of sentence against him.

**AGREEMENT TO PLEAD GUILTY
AND WAIVE CERTAIN RIGHTS**

2. The defendant knowingly and voluntarily waives:
- (a) the rights set out in subparagraphs 1(b)–(f) above;
 - (b) the right to file any appeal or collateral attack, including but not limited to an application or motion under 28 U.S.C. § 2241 or 2255 that challenges his conviction, including but not limited to any appeal or collateral attack raising an argument that (i) the statute to which he is pleading guilty is unconstitutional; or (ii) the admitted conduct does not fall within the scope of such statute; and
 - (c) the right to file any appeal or collateral attack, including but not limited to an appeal under 18 U.S.C. § 3742 or an application or motion under 28 U.S.C. § 2241 or 2255, that challenges the sentence imposed by the Court if that sentence is at or below the statutory maximum, regardless of how the sentence is determined by the Court. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b).

Nothing in this paragraph, however, will act as a bar to the defendant perfecting any legal remedies he may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct. The defendant agrees that there is currently no known evidence of ineffective assistance of counsel or prosecutorial misconduct. Consistent with Fed. R. Crim. P. 11(b)(1)(O), the defendant recognizes that if he is not a citizen of the

United States pleading guilty may have consequences with respect to his immigration status, including removal from the United States, denial of citizenship, and denial of admission to the United States in the future. Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive indictment and plead guilty to a three-count Information to be filed in the United States District Court for the Southern District of Mississippi. The Information will charge the defendant with participating in:

- (a) a conspiracy to suppress and eliminate competition and restrain trade by rigging bids with COMPANY-1 and other co-conspirators for sports equipment and apparel (collectively, “sports equipment”) and related services for schools in the Southern District of Mississippi and elsewhere beginning at least in or around August 2020 and continuing through at least in or around November 2022, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1 (“Count 1”);
- (b) a conspiracy to suppress and eliminate competition and restrain trade by rigging bids with COMPANY-2 and other co-conspirators for sports equipment and related services for schools in the Southern District of Mississippi beginning at least in or around May 2021 and continuing through at least in or around February 2023, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1 (“Count 2”); and
- (c) a conspiracy to commit wire fraud (18 U.S.C. § 1343) for sports equipment and related services for schools in the Southern District of Mississippi and elsewhere beginning at least in or around May 2016 and

continuing through at least in or around May 2023, in violation of the 18 U.S.C. § 1349 (“Count 3”).

3. The defendant will plead guilty to the criminal charges described in Paragraph 2 above pursuant to the terms of this Plea Agreement and will make a factual admission of guilt to the Court in accordance with Fed. R. Crim. P. 11. The United States agrees that at the arraignment, it will stipulate to the release of the defendant on his personal recognizance, pursuant to 18 U.S.C. § 3142, pending the sentencing hearing in this case.

FACTUAL BASIS FOR OFFENSE CHARGED

4. Had this case gone to trial, the United States would have presented evidence sufficient to prove the following facts:

- (a) Beginning at least in or around May 2016 and continuing through at least in or around May 2023, the defendant was employed by COMPANY-5. Through his employment, the defendant was involved in the sale of sports equipment to schools in Mississippi and elsewhere. The defendant knew that some public schools in Mississippi required bids from two separate companies for sports equipment over \$5,000.
- (b) Acts in furtherance of each of the conspiracies described below (Counts 1–3) were carried out within the Southern District of Mississippi, and some of the schools affected by the conspiracies are located in this district.
- (c) At least 100 schools were affected as a result of the charged conspiracies.

Count 1 (15 U.S.C. § 1)

- (a) For purposes of this Plea Agreement, the relevant period for Count 1 is that period from as least as early as August 2020 through at least as late as November 2022 (“Count 1 relevant period”).
- (b) During the Count 1 relevant period, the defendant knowingly entered into and engaged in a conspiracy with COMPANY-1, CO-CONSPIRATOR-1, CO-CONSPIRATOR-2, CO-CONSPIRATOR-3, CO-CONSPIRATOR-4, CO-CONSPIRATOR-5, CO-CONSPIRATOR-6, CO-CONSPIRATOR-7, CO-CONSPIRATOR-8, and other co-conspirators to suppress and eliminate competition by rigging bids for sports equipment and related services for schools in the Southern District of Mississippi and elsewhere, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.
- (c) In furtherance of the conspiracy, the defendant and co-conspirators did, among other things, the following:
 - i. agreed in advance of some bids which co-conspirator would win the bid;
 - ii. agreed to provide and submit complementary bids (that is, intentionally higher-priced bids) to schools;
 - iii. requested and received complementary bids from co-conspirators;
 - iv. submitted complementary bids to schools on behalf of COMPANY-5;

- v. provided complementary bids to co-conspirators to submit on behalf of COMPANY-1; and
 - vi. received procurements on behalf of COMPANY-5 for school sports equipment and related services where complementary bids were submitted.
- (d) The conspiracy to rig bids affected at least \$135,795.24 of sales to COMPANY-5 from at least 12 procurements. The defendant received commission payments from his employer, COMPANY-5, based on some of these sales.
- (e) During the Count 1 relevant period, the business activities of the defendant and his co-conspirators that are the subject of the conspiracy charged in Count 1 were within the flow of, and substantially affected, interstate trade and commerce. For example, helmets that were sold as a part of the conspiracy were manufactured outside Mississippi and sold and transported into Mississippi.
- (f) The defendant was an organizer or leader of this conspiracy, which involved ten or more participants including the defendant. For example, the defendant exercised supervisory control over CO-CONSPIRATOR-1 and solicited CO-CONSPIRATOR-1 to prepare complementary bids that defendant then submitted to schools.

Count 2 (15 U.S.C. § 1)

- (a) For purposes of this Plea Agreement, the relevant period for Count 2 is that period from as least as early as May 2021 through at least as late as February 2023 (“Count 2 relevant period”).
- (b) During the Count 2 relevant period, the defendant knowingly entered into and engaged in a conspiracy with COMPANY-2, CO-CONSPIRATOR-9, CO-CONSPIRATOR-10, CO-CONSPIRATOR-11, and other co-conspirators to suppress and eliminate competition by rigging bids for sports equipment and related services for schools in the Southern District of Mississippi, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.
- (c) In furtherance of the conspiracy, the defendant and co-conspirators did, among other things, the following:
 - i. agreed in advance of some bids which co-conspirator would win the bid;
 - ii. agreed to provide and submit complementary bids (that is, intentionally higher-priced bids) to schools;
 - iii. requested and received complementary bids from co-conspirators;
 - iv. submitted complementary bids to schools on behalf of COMPANY-5;
 - v. provided complementary bids to co-conspirators to submit on behalf of COMPANY-2; and

- vi. received procurements on behalf of COMPANY-5 for school sports equipment and related services where complementary bids were submitted.
- (d) The conspiracy to rig bids affected at least \$122,594.00 of sales to COMPANY-5 from at least 11 procurements. The defendant received commission payments from his employer, COMPANY-5, based on some of these sales.
- (e) During the Count 2 relevant period, the business activities of the defendant and his co-conspirators that are the subject of the conspiracy charged in Count 2 were within the flow of, and substantially affected, interstate trade and commerce. For example, helmets that were sold as a part of the conspiracy were manufactured outside Mississippi and sold and transported into Mississippi.
- (f) The defendant was an organizer, leader, manager, or supervisor of this conspiracy. For example, he approached CO-CONSPIRATOR-9 to request a complementary bid and approached CO-CONSPIRATOR-10 to request a separate complementary bid.

Count 3 (18 U.S.C. § 1349)

- (a) For purposes of this Plea Agreement, the relevant period for Count 3 is that period from as least as early as May 2016 through at least as late as May 2023 (“Count 3 relevant period”).
- (b) During the Count 3 relevant period, the defendant knowingly, and with specific intent to defraud, engaged in a conspiracy with CO-

CONSPIRATOR-1, CO-CONSPIRATOR-5, CO-CONSPIRATOR-8, CO-CONSPIRATOR-12, CO-CONSPIRATOR-13, and other co-conspirators to commit wire fraud through a scheme to obtain money from school sports procurements awarded to COMPANY-5 by submitting false bids to schools in the Southern District of Mississippi and elsewhere, in violation of 18 U.S.C. § 1349.

- (c) In furtherance of the conspiracy, the defendant and co-conspirators did, among other things, the following:
- i. agreed to participate in a scheme to submit false bids in order to obtain money from schools for sports equipment and related services;
 - ii. prepared and submitted false bids showing higher prices that purported to be on behalf of COMPANY-3 and COMPANY-4;
 - iii. submitted false bids on bidding forms that appeared to be from COMPANY-3 and COMPANY-4, though they were in fact not. COMPANY-3 had been acquired by COMPANY-1 in April 2014, prior to the Count 3 relevant period, and a portion of COMPANY-4's assets was acquired by COMPANY-1 in December 2017, during the Count 3 relevant period. Neither COMPANY-3 nor COMPANY-4 were operational as team sports dealers to schools after the acquisitions.

- iv. used INDIVIDUAL-1's identity in furtherance of the fraudulent bid scheme, including by forging INDIVIDUAL-1's signature on many of the false bids;
- v. submitted and caused to be submitted at least 396 false bids to schools relating to school sports equipment;
- vi. subverted schools' procurement process in order to obtain payments for COMPANY-5 by the submission of false, noncompetitive bids; and
- vii. used wire communications in interstate commerce to communicate with co-conspirators and submit bids.

- (d) The submission of false bids was material to school officials involved in the procurement process. Defendant's material misrepresentations through the submission of false bids affected at least \$2,095,725.80 of sales to COMPANY-5. The defendant received commission payments from his employer, COMPANY-5, based on some of these sales.
- (e) When submitting false bids, members of the conspiracy sometimes took steps to conceal the fact they were submitting false bids, and therefore concealed the offense. The defendant and his co-conspirators asked others to scan false bids and submit the false bids using separate email addresses, forged INDIVIDUAL-1's signature on false bids, asked others to forge INDIVIDUAL-1's signature on false bids, asked school officials to print false bids, and sent a false bid to a school official, telling him, "Obviously you didn't get it from me."

- (f) The defendant was an organizer or leader of this conspiracy, which involved six or more participants including the defendant. For example, the defendant instructed CO-CONSPIRATOR-1 in the creation of false bids, which defendant would then submit to schools.

ELEMENTS OF THE OFFENSE

- 5. The elements of the charged violations of 15 U.S.C. § 1 (Counts 1 and 2) are that:
 - (a) the conspiracy described in the Information existed at or about the time alleged;
 - (b) the defendant knowingly engaged in the conspiracy; and
 - (c) the conspiracy described in the Information either substantially affected interstate commerce in goods or services or occurred within the flow of interstate commerce in goods and services.

- 6. The elements of the charged violation of 18 U.S.C. § 1349 (Count 3) are that:
 - (a) two or more persons made an agreement to commit wire fraud in violation of 18 U.S.C. § 1343;
 - (b) the defendant knew the unlawful purpose of the agreement; and
 - (c) the defendant joined in the agreement with the intent to further the unlawful purpose.

- 7. The elements of the underlying offense of wire fraud, 18 U.S.C. § 1343, are as follows:
 - (a) the defendant knowingly devised or intended to devise any scheme to defraud;
 - (b) the scheme to defraud employed false material representations;

- (c) the defendant transmitted, or caused to be transmitted, by way of wire communications, in interstate commerce, any writing for the purpose of executing such scheme; and
- (d) the defendant acted with a specific intent to defraud.

POSSIBLE MAXIMUM SENTENCE

8. The defendant understands that the statutory maximum penalty that may be imposed against him upon conviction for each violation of 15 U.S.C. § 1 (Counts 1 and 2) is:

- (a) a term of imprisonment for ten (10) years (15 U.S.C. § 1);
- (b) a fine in an amount equal to the greatest of (i) \$1 million; (ii) twice the gross pecuniary gain the conspirators derived from the crime; or (iii) twice the gross pecuniary loss caused to the victims of the crime by the conspirators (15 U.S.C. § 1; 18 U.S.C. § 3571(b) and (d));
- (c) a term of supervised release of three (3) years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be required to serve up to two (2) years in prison (18 U.S.C. §§ 3559(a)(3), 3583(b)(2) and (e)(3) and United States Sentencing Guidelines (“U.S.S.G.,” “Sentencing Guidelines,” or “Guidelines”) § 5D1.2(a)(2)); and
- (d) pursuant to U.S.S.G. §5E1.1 or 18 U.S.C. § 3663(a)(3) or 3583(d), the Court may order him to pay restitution to the victims of the offense.

9. The defendant understands that the statutory maximum penalty that may be imposed against him upon conviction for a violation of 18 U.S.C. § 1349 (Count 3) is:

- (a) a term of imprisonment for twenty (20) years (18 U.S.C. §§ 1343, 1349);

- (b) a fine in an amount equal to the greatest of (i) \$250,000.00; (ii) twice the gross pecuniary gain the conspirators derived from the crime; or (iii) twice the gross pecuniary loss caused to the victims of the crime by the conspirators (18 U.S.C. §§ 1343, 1349, 3571(b) and (d));
- (c) a term of supervised release of three (3) years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be required to serve up to two (2) years in prison (18 U.S.C. §§ 3559(a)(3), § 3583(b)(2) and (e)(3) and U.S.S.G § 5D1.2(a)(2)); and
- (d) pursuant to 18 U.S.C. § 3663A(c)(1)(A)(ii), the Court is required to order him to pay restitution to the victims of the offense unless the Court finds (A) the number of identifiable victims is so large as to make restitution impracticable; or (B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

10. In addition, the defendant understands that pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the defendant to pay a \$100.00 special assessment upon conviction for each of the charged crimes.

SENTENCING GUIDELINES

11. The defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider, in determining and imposing sentence, the Guidelines Manual in effect on the date of sentencing unless that Manual provides for greater

punishment than the Manual in effect on the last date that the offense of conviction was committed, in which case the Court must consider the Guidelines Manual in effect on the last date that the offense of conviction was committed. The parties agree there is no *ex post facto* issue under the 2021 Guidelines Manual and its Amendments. The Court must also consider the other factors set forth in 18 U.S.C. § 3553(a) in determining and imposing sentence. The defendant understands that the Court will make Guidelines determinations by applying a standard of preponderance of the evidence. The defendant understands that although the Court is not ultimately bound to impose a sentence within the applicable Guidelines range, its sentence must be reasonable based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a).

GOVERNMENT'S AGREEMENT

12. Subject to the terms of this Plea Agreement, and upon the Court's acceptance of the guilty plea called for by this Plea Agreement and the imposition of sentence, the United States agrees that it will not bring further criminal charges against the defendant for any act or offense committed before the date of signature of this Plea Agreement that was undertaken in furtherance of an antitrust conspiracy or wire fraud conspiracy relating to sports equipment and related services for schools in the Southern District of Mississippi and elsewhere ("Relevant Offenses"). The non-prosecution terms of this paragraph do not apply to (1) any acts of perjury or subornation of perjury (18 U.S.C. §§ 1621–22), making a false statement or declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice (18 U.S.C. §§ 1503 *et seq.*), contempt (18 U.S.C. §§ 401–402), or conspiracy to commit such offenses; (2) civil matters of any kind; (3) any violation of the federal tax or securities laws or conspiracy to commit such offenses; or (4) any crime of violence.

REPRESENTATION BY COUNSEL

13. The defendant has reviewed all legal and factual aspects of this case with his attorney and is fully satisfied with his attorney's legal representation. The defendant has thoroughly reviewed this Plea Agreement with his attorney and has received satisfactory explanations from his attorney concerning each paragraph of this Plea Agreement and alternatives available to the defendant other than entering into this Plea Agreement. After conferring with his attorney and considering all available alternatives, the defendant has made a knowing and voluntary decision to enter into this Plea Agreement.

VOLUNTARY PLEA

14. The defendant's decision to enter into this Plea Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Plea Agreement. The United States has made no promises or representations to the defendant as to whether the Court will accept or reject the recommendations contained within this Plea Agreement.

VIOLATION OF PLEA AGREEMENT

15. The defendant agrees that, should the United States determine in good faith, during the period that any Federal Proceeding is pending, that the defendant has failed to comply with the terms of the Plea Agreement, has otherwise violated any provision of this Plea Agreement, or has committed any other crimes, the United States will notify counsel for the defendant in writing by personal or overnight delivery, email, or facsimile transmission and may also notify counsel by telephone of its intention to void any of its obligations under this Plea Agreement (except its obligations under this paragraph), and the defendant will be subject to prosecution for any federal crime of which the United States has knowledge including, but not

limited to, the substantive offenses relating to the investigation resulting in this Plea Agreement, including such prosecutions that might have been dismissed or otherwise barred by the Double Jeopardy Clause. The defendant agrees that, in the event that the United States is released from its obligations under this Plea Agreement and brings criminal charges against the defendant for any Relevant Offenses, the statute of limitations period for any such Offense will be tolled for the period between the date of signature of this Plea Agreement and six (6) months after the date the United States gave notice of its intent to void its obligations under this Plea Agreement.

16. The defendant understands and agrees that in any further prosecution of him resulting from the release of the United States from its obligations under this Plea Agreement because of the defendant's violation of this Plea Agreement, any documents, statements, information, testimony, or evidence provided by him to attorneys or agents of the United States, federal grand juries, or courts, and any leads derived therefrom, may be used against him. In addition, the defendant unconditionally waives his right to challenge the use of such evidence in any such further prosecution, notwithstanding the protections of Fed. R. Evid. 410.

ENTIRETY OF AGREEMENT

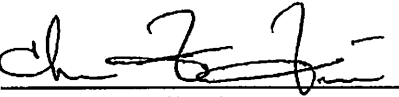
17. This Plea Agreement constitutes the entire agreement between the United States and the defendant concerning the disposition of the criminal charge in this case. This Plea Agreement cannot be modified except in writing, signed by the United States and the defendant.

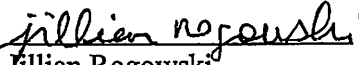
18. The undersigned attorneys for the United States have been authorized by the Attorney General of the United States to enter this Plea Agreement on behalf of the United States.

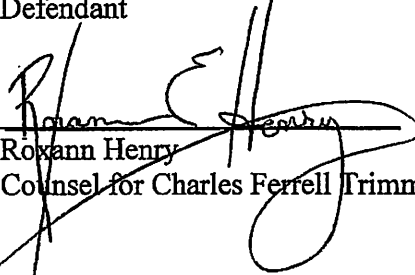
19. A facsimile or PDF signature will be deemed an original signature for the purpose of executing this Plea Agreement. Multiple signature pages are authorized for the purpose of executing this Plea Agreement.

DATED: 1/5/2024

Respectfully submitted,

BY: 
Charles Ferrell Trimm,
Defendant

BY: 
Jillian Rogowski
Marc Hedrich
Laura Butte

BY: 
Roxann Henry
Counsel for Charles Ferrell Trimm

Trial Attorneys
United States Department of Justice
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