

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

UNITED STATES OF AMERICA )  
 )  
 v. ) **CASE NO. 4:20-CR-081**  
 )  
 EVANS CONCRETE, LLC; )  
 GREGORY HALL MELTON; )  
 JOHN DAVID MELTON, )  
 a.k.a. DAVID MELTON; and )  
 TIMOTHY TOMMY STRICKLAND, )  
 a.k.a. BO STRICKLAND; )

**Defendants.**

**GOVERNMENT’S PROPOSED FINDINGS OF FACT**  
**REGARDING THE FIRST TWO PRONGS OF THE ANALYSIS OF THE**  
**ADMISSIBILITY OF STATEMENTS UNDER RULE 801(d)(2)(E)**

The United States of America, by and through the undersigned attorneys, respectfully submits the following proposed findings of fact pursuant to this Court’s orders on November 15, 2023 (ECF No. 407), and January 17, 2024 (ECF No. 416), following the hearing on November 15, 2023, pursuant to *United States v. James*, 590 F.2d 575 (5th Cir. 1978) (en banc).

**I. FACTUAL FINDINGS**

**A. Background**

1. Argos USA LLC (“Argos”) was a supplier of both ready-mix concrete and cement in the Savannah, Georgia, area, which included Savannah, Georgia; Statesboro, Georgia; Hilton Head, South Carolina; and other towns. *James* Hearing Transcript (Nov. 15, 2023) (“Tr.”) 38:4–5; Tr. 122:8–10; Government’s *James* Hearing Exhibit (“GJX”) 46 at 24–25; GJX 47 at 3. Defendant Greg Melton was the division manager for ready-mix concrete sales for Argos’s Savannah division. GJX 46 at 24. Chris Young worked as a sales manager and reported directly

to Defendant Greg Melton. Tr. 40:7–11. James Pedrick worked as a cement salesman for Argos until July 2016. Tr. 38:1–3; GJX 47 at 2.

2. Other companies selling ready-mix concrete in the greater Savannah area included Defendant Evans Concrete LLC (“Evans Concrete”), Elite Concrete LLC (“Elite”); Savannah Ready Mix LLC (“SRM”); Mayson Concrete, Inc. (“Mayson”), and Coastal Concrete Southeast LLC (“Coastal”). Tr. 32:15–19. Defendant Timothy Strickland worked at Defendant Evans Concrete and became its owner in 2012. Tr. 58:19–23. Defendant David Melton was, at various times, the general manager and director of operations at Elite until approximately 2015. Tr. 79:19–24; GJX 55.

3. In approximately 2011, Young reported to the government that Defendant Greg Melton was engaging in anticompetitive conduct with other ready-mix concrete companies. Tr. 28:9–22. Young began cooperating with the government and, as part of his cooperation, surreptitiously made over one thousand audio recordings between approximately 2012 and approximately 2016. Tr. 30:3–18.

4. In 2021, Argos entered into a deferred prosecution agreement (“DPA”) with the United States, admitting to its participation in a conspiracy to fix prices, rig bids, and allocate jobs in the ready-mix concrete industry. GJX 46. In the DPA, Argos admitted that its employees, “primarily [Defendants] Greg Melton and James Pedrick,” conspired to fix prices, rig bids, and allocate markets for sales of ready-mix concrete in “the greater Savannah, Georgia, area (including Statesboro, Georgia, and Hilton Head, South Carolina).” *Id.* at 24–25.

5. James Pedrick entered into a plea agreement with the United States, GJX 47, and pled guilty to Count One of the Indictment on September 19, 2023, ECF No. 383, which charges

the defendants with entering into and engaging in “a conspiracy to suppress competition by fixing prices, rigging bids, and allocating markets of ready-mix concrete,” ECF No. 1 at 1–2. In the plea agreement, Pedrick admitted that he and his co-conspirators, including Defendants Greg Melton, David Melton, Strickland, and Evans Concrete, participated in the charged conspiracy from at least 2010 until in or about July 2016 “to suppress and eliminate competition by fixing prices, rigging bids, and allocating markets for sales of ready-mix concrete in the greater Savannah, Georgia, area, which included Savannah, Georgia; Hilton Head Island, South Carolina; Rincon, Georgia; Richmond Hill, Georgia; and Statesboro, Georgia.” GJX 47 at 3.

**B. A Preponderance of the Evidence Demonstrates That a Conspiracy Existed and That the Defendants Were Members of the Conspiracy**

6. A preponderance of the evidence shows that various ready-mix concrete companies and their employees participated in a conspiracy to suppress competition for sales of ready-mix concrete by fixing prices, rigging bids, and allocating jobs in the greater Savannah area, which included Savannah, Georgia; Hilton Head Island, South Carolina; Rincon, Georgia; Richmond Hill, Georgia; and Statesboro, Georgia, from at least as early as 2010 until approximately 2016. *See* Tr. 31:22–32:2; GJX 46; GJX 47. The overall goal of the conspiracy was to increase ready-mix concrete prices and to keep the prices up in this area. *See* Tr. 32:3–6; GJX 47 at 3; GJX 46 at 24–25; Tr. 33:12–35:2.

7. Defendant Evans Concrete, Argos, Elite, SRM, Mayson, Coastal, and certain of their agents and employees participated in the conspiracy. Tr. 32:6–9; GJX 46 at 24–25; GJX 47 at 2–4. Defendants Strickland, David Melton, and Greg Melton participated in the conspiracy between 2010 and 2016. GJX 46 at 25; GJX 47 at 2. *See generally* GJX 58.

8. The conspirators primarily communicated with each other by sending messages through Pedrick. Tr. 32:22–25; Tr. 37:22–25; GJX 46 at 25; GJX 47 at 4. Pedrick was a natural conduit for transmitting information because of his role as a cement salesman, a role that involved him meeting and communicating with the ready-mix concrete companies that were his customers or prospective customers, Tr. 38:9–23; GJX 46 at 25; GJX 47 at 4, as cement is an ingredient of ready-mix concrete, Tr. 38:8. In furtherance of the conspiracy, the conspirators transmitted information and documents to each other through Pedrick, including pricing and job-related information and price increase letters. Tr. 32:22–25; Tr. 37:19–38:23; *see also* GJX 20-T at 1<sup>1</sup>; GJX 27-T; GJX 28-T; GJX 31-T at 3; GJX 41-T at 1; GJX 44-T at 4; GJX 49-T at 3.

9. All the conspirator companies—Argos, Defendant Evans Concrete, Elite, Coastal, Mayson, and SRM—participated in the coordination and exchange of price increase letters through Pedrick. Tr. 33:12–16; *see also* GJX 18-T at 1 (Elite); GJX 19-T at 3 (Evans); GJX 20-T at 1 (Elite, Coastal, Evans); GJX 27-T (Elite, Coastal, Evans); GJX 28-T (Elite, Coastal, Evans); GJX 31-T at 3 (Elite, Evans); GJX 41-T at 1 (SRM, Argos, Coastal, Elite, Evans); Tr. 69:15–70:7 (Mayson). Defendants Greg Melton, David Melton, and Strickland specifically participated in the coordination and exchange of price increase letters. *See, e.g.*, GJX 15-T at 1 (David Melton); GJX 16-T at 1 (Greg Melton); GJX 28-T (Strickland). The purpose of this coordination and exchange was to ensure the companies increased their prices for ready-mix concrete by roughly the same amount and at roughly the same time. Tr. 33:17–21; *see also* GJX 40-T at 1; GJX 44-T at 5–6; GJX 51-T at 1. It was beneficial for the conspirator companies to increase

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<sup>1</sup> Citations to page numbers of audio recording transcripts refer to the page numbers of the PDF documents.

prices together because it helped them make more money, Tr. 39:3–6, and because the companies had mutual customers, Tr. 39:7–10.

10. The conspiracy also involved job allocation between Defendant Greg Melton at Argos and Defendant David Melton at Elite. Tr. 40:22–24. For example, Defendant Greg Melton at Argos allocated some residential jobs to Defendant David Melton at Elite. *Id.*; GJX 46 at 25. The purpose of the job allocation involving Defendants Greg Melton and David Melton was to increase or maintain the price of ready-mix concrete, which is consistent with and furthered the overall purpose of the conspiracy. *See* Tr. 33:22–35:2; Tr. 40:22–41:6.

11. The conspiracy also involved bid rigging and job allocation between Defendant Greg Melton of Argos and Defendant Strickland of Defendant Evans Concrete. Tr. 39:11–13; Tr. 40:19–21; Tr. 41:20–42:10; GJX 46 at 25; GJX 47 at 4; GJX 3-T at 2; GJX 5-T at 1–3; GJX 9-T at 2; GJX 50-T at 4–5. Defendants Greg Melton and Strickland communicated with each other—both directly and through Pedrick—regarding pricing and jobs in Statesboro. *See, e.g.*, GJX 23-T; GJX 48-T at 4; GJX 49-T at 3. In furtherance of the conspiracy, Defendants Greg Melton and Strickland agreed to allocate specific jobs, GJX 3-T at 2, and agreed to set floor prices for quoting jobs in the Statesboro area, GJX 22-T at 1; GJX 48-T at 4. The purpose of the price fixing and job allocation between Defendants Greg Melton and Strickland was to increase or maintain the price of ready-mix concrete, which is consistent with and furthered the overall purpose of the conspiracy. *See* Tr. 34:18–35:2.

**C. A Preponderance of the Evidence Demonstrates That the Non-Defendant Declarants Were Members of the Conspiracy.**

**i. Tommy Strickland**

12. Tommy Strickland owned Defendant Evans Concrete until approximately 2012 and remained involved with the company thereafter, including as an advisor and as chairman of the company's Board of Directors. Tr. 58:7–59:6; Def. Evans Concrete Ex. 6. Tommy Strickland transferred ownership of Defendant Evans Concrete to his son, Defendant Strickland, in or around 2012. Tr. 58:19–23. Prior to Defendant Strickland taking over the company, Tommy Strickland was Pedrick's point of contact at Defendant Evans Concrete, and Pedrick delivered competitor pricing information to Tommy Strickland. Tr. 59:9–15. Tommy Strickland participated in the conspiracy by agreeing to set prices on ready-mix concrete, participating in the exchange of price increase letters through Pedrick, and allocating jobs in Statesboro with Argos. Tr. 59:9–63:23; GJX 14-T at 1; GJX 23-T; GJX 35-T at 2; GJX 36-T at 2; GJX 37-T at 1.

**ii. Mark Turner**

13. Mark Turner, together with Jason Wells, founded SRM in 2012. Tr. 64:2–8. Turner participated in the conspiracy on behalf of SRM through his involvement in the exchange and coordination of price increase letters. SRM's competitors included Defendant Evans Concrete, Argos, Elite, and Coastal. Tr. 64:20–22. Pedrick delivered competitors' price increase letters to SRM's office, Tr. 64:14–16; Tr. 65:1–4; GJX 41-T at 1; GJX 51-T at 1, 3, and Turner agreed to provide Pedrick with a copy of SRM's price increase letter, GJX 40-T at 1. Turner had discussions with Pedrick about competitors' price increases, Tr. 64:9–13; Tr. 66:7–10; GJX 39-T at 1, and in 2013, Turner informed Pedrick that SRM would be putting out a price increase letter and that Turner would give Pedrick a copy of it, *see* GJX 40-T at 1. Turner and Wayne

McGowan, a SRM employee, discussed the conspirator-competitor companies' price increase letters in coming up with SRM's price increase letter. Def. Evans Concrete Ex. 1 at 4 (65:4-7); *see also* Tr. 65:5-15.

**iii. Jason Wells**

14. Jason Wells was owner of Mayson from 2007 until 2012, when he founded SRM with Mark Turner. Tr. 68:20-69:11. Wells participated in the conspiracy on behalf of Mayson and SRM. He was involved in the exchange and coordination of price increase letters, including by distributing copies of Mayson's price increase letter to Argos, Coastal, and Defendant Evans Concrete, and by having communications with Pedrick about the conspirators' prices and price increase letters, Tr. 69:15-70:7. After forming SRM with Turner in 2012, Wells continued to participate in the conspiracy. For example, in 2013, Pedrick delivered Argos and Coastal price increase letters to SRM's office, and SRM issued a price increase letter that fell in line with the Argos and Coastal price increases. Tr. 65:1-15; *see also* GJX 40-T; GJX 41-T.

**iv. Tim Coughlin**

15. Tim Coughlin owned Coastal from 2010 until 2015, Tr. 70:9-15, and had the authority to set Coastal's ready-mix concrete prices Tr. 70:23-25. He participated in the conspiracy on behalf of Coastal. Coughlin was Pedrick's contact at Coastal, Tr. 70:20-22, and Coughlin and Pedrick had conversations about ready-mix concrete pricing, *see, e.g.*, GJX 3-T at 5, including a conversation in which Pedrick said Argos would increase its price and Coughlin responded that Coastal would also increase its price, Tr. 71:1-8. In 2011, Coughlin had a meeting with Wells (owner of Mayson), and Coughlin told Wells that Coastal, Elite, and Argos would crush Mayson if Wells did not increase Mayson's prices on ready-mix concrete. Tr. 71:9-

19. Coughlin also discussed price increases with conspirator Trey Cook, co-owner of Elite. GJX 4-T at 3. And Pedrick delivered Coastal's price increase letter to Defendant David Melton. GJX 17-T. Pedrick also discussed Coastal's price increases with Defendant Strickland of Defendant Evans Concrete. Tr. 77:23–78:1; GJX 28-T.

**v. Hurley “Trey” Cook**

16. Trey Cook was co-owner of Elite from 2007 until 2015. Tr. 79:11–16. He participated in the conspiracy on behalf of Elite. Cook knew that Defendant David Melton, his employee, routinely talked with Pedrick about competitor prices, Tr. 80:3–6, and that Pedrick provided Defendant David Melton with competitors' price increase letters prior to those letters being sent to customers, Tr. 80:7–10. Cook admitted to law enforcement agents that Elite used the information provided by Pedrick in making pricing decisions. Tr. 80:11–13. Cook also discussed price increases directly with Defendant Greg Melton of Argos and Coughlin of Coastal. Tr. 81:17–20; Tr. 83:5–11; GJX 4-T at 3; GJX 44-T at 3–6. He also met directly with Turner and told him SRM should charge additional fees to align with Argos and Elite. Tr. 80:20–81:4.

**vi. David Howard**

17. David Howard worked for Argos as an area manager from approximately 2008 to 2011 and as vice president of innovation from approximately 2011 to 2016. Tr. 83:12–84:4. He participated in the conspiracy on behalf of Argos. Howard met on several occasions with Tommy Strickland—owner of Defendant Evans Concrete at the time—at Argos's offices, and both Argos and Defendant Evans Concrete announced price increases shortly after these meetings. Tr. 84:19–85:1. Howard also participated in and condoned the job allocation between Argos and



Defendant Evans Concrete in Statesboro. *See* Tr. 85:13–87:6; GJX 4-T at 4; GJX 45-T at 5–8.

When Tommy Waters, an Argos salesman, complained to Howard about Pedrick and Defendant Strickland “divvying up” jobs in Statesboro, Howard’s response was, “Well, y’all don’t need to be killing each other up there. You know, try to keep the price up.” GJX 45-T at 6.

## II. CONCLUSION

Having established each of the Findings of Fact numbered 1–17, *supra*, by a preponderance of the evidence, the United States has satisfied the first two prongs required to admit the statements in its *James* Log, ECF No. 387-1, as co-conspirator statements under Federal Rule of Evidence 801(d)(2)(E) as required by *United States v. James*, 590 F.2d 575, and its progeny. As previously ordered by this Court, ECF No. 418, the United States will file briefing on the third prong by February 6, 2024.

Respectfully submitted,

/s/ Patrick Brown

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**CERTIFICATE OF SERVICE**

This is to certify that I have on this day served all counsel of record in this case in accordance with the notice of electronic filing which was generated as a result of electronic filing in this Court.

Submitted this 23<sup>rd</sup> day of January, 2024.

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