



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LABOR BUREAU

PLEA AGREEMENT

1. This is the plea agreement between the New York State Office of the Attorney General (“OAG”) and defendant Abdul Jamil Khokhar (“Defendant”).

2. This memorandum constitutes the entire agreement between the Defendant and OAG. This agreement supersedes any prior promises, agreements or conditions between the parties. No promises, agreements or conditions have been entered into other than those set forth in this agreement. No modification, deletion or addition to this agreement will be valid or binding on a party unless put into writing and signed by the parties. This agreement will become effective immediately when signed by all the signatories listed below and approved by the Court.

3. **The Plea and Related Terms:**

a. Defendant acknowledges that he and co-Defendant BMY Foods Inc. (“co-Defendant”) jointly owned and/or operated nine (9) Papa John’s franchise locations in the Bronx at varying times between January 2012 and August 2014. These Papa John’s franchise locations are or were located at: 1979 Jerome Ave., Bronx, NY 10453; 868 E. Tremont Ave., Bronx, NY 10460; 1520 Westchester Ave., Bronx, NY 10472; 11 E. 183rd St., Bronx, NY, 10453; 3746 3rd Ave., Bronx, NY 10456; 1010 Southern Blvd., Bronx, NY 10459; 475 Willis Ave., Bronx, NY 10455; 362 E. 204th St., Bronx, NY 10467; and 2733 White Plains Road, Bronx, NY 10467 (“Khokhar Papa John’s Franchises”).

b. Defendant understands that the OAG has conducted an investigation into the Khokhar Papa John’s Franchises which could result in the following crimes being charged against Defendant and co-Defendant: 52 counts of Offering a False Instrument for Filing in the First Degree, under Penal Law § 175.35(1) (an “E” Felony punishable by up to four years in jail for each count); 52 counts of Falsifying Business Records in the First Degree, under Penal Law § 175.10 (an “E” Felony punishable by up to four years in jail for each count); nine counts of Failure to Pay Wages, under Labor Law § 198-a(1) (an unclassified misdemeanor punishable by up to one year in jail and a mandatory fine of between \$500.00 and \$20,000.00 for each count); and, 52 counts of Willful Failure to Pay Unemployment Insurance Contributions, under Labor Law § 633 (an unclassified misdemeanor punishable by up to one year in jail).

c. On a date determined by the OAG, Defendant shall surrender upon a felony complaint charging him with one count of Offering a False Instrument for Filing in the First Degree, under Penal Law § 175.35(1) (an “E” Felony), one count of Falsifying Business Records in the First Degree, under Penal Law § 175.10 (an “E” Felony), and one count of Failure to Pay Wages, under Labor Law § 198-a(1) (an unclassified misdemeanor), and he shall appear to be arraigned in the Criminal Court of the County of the Bronx. At arraignment on the felony complaint, the

OAG shall consent to Defendant's release on his own recognizance, and Defendant shall waive speedy trial and shall agree to adjourn the case for disposition.

d. On the first appearance or first adjourn date to a Criminal Term of the Supreme Court of the County of the Bronx, Defendant agrees to waive prosecution by misdemeanor information or superior court information and to plead guilty to one count of the crime of Failure to Pay Wages, under Labor Law § 198-a(1) (an unclassified misdemeanor). This plea shall be in full satisfaction of any crimes that could be charged in connection with the employment of workers at the Khokhar Papa John's Franchises, including violations of the Labor Law or the Penal Law, between January 2012 and August 2014.

e. This agreement, which the parties shall request the Criminal Term of the Supreme Court of the County of the Bronx to approve, will become effective only upon the Court's approval. Upon the Court's approval, Defendant will plead guilty as set forth above in paragraph 3(d). At the time of his plea, Defendant will waive all defenses and all rights of appeal.

f. Defendant is represented by his attorneys, Ford & Harrison LLP and BahnMulter LLP. Defendant agrees that he has been advised of, and understands, the nature of the charges against him, the elements of the offenses with which he is charged, and the range of permissible sentences for the charges in the felony complaint, including a possible jail sentence of up to four years for these crimes or probation for a period of five years, a fine of not less than \$500.00 nor more than \$20,000.00, a fine of \$10,000.00 or double the amount of Defendant's gain from the commission of the crime, restitution and reparation, a surcharge payable to the court, and a crime victim's assistance fee.

g. By pleading guilty, Defendant is giving up the following rights, which he has discussed with his attorneys:

- 1) Defendant understands that by pleading guilty he is giving up his right to a trial by a twelve-person jury drawn from a broad cross-section of the community.
- 2) Defendant understands that by pleading guilty he is giving up his right to have the People produce witnesses to testify against him.
- 3) Defendant understands that by pleading guilty he is giving up his right to have his attorneys cross-examine any witnesses who may testify against him.
- 4) Defendant understands that by pleading guilty he is giving up his right to have his attorneys produce witnesses to testify for him.
- 5) Defendant understands that by pleading guilty he is giving up his right to remain silent and the right to either testify or not testify at trial.
- 6) Defendant understands that by pleading guilty he is giving up his right to have the People prove his guilt beyond a reasonable doubt by a unanimous verdict of twelve jurors at trial.

- 7) Defendant understands that by pleading guilty his plea will operate just like a conviction of guilty after a jury trial.
- 8) Defendant understands that by pleading guilty, if he has a defense to the charges, he is giving up the right to present that defense at trial.
- 9) Defendant understands that by pleading guilty he is giving up his right to claim that the OAG or representatives of the United States Department of Labor did anything illegal in regard to the charges, and his right to a hearing to determine if the conduct of the OAG, or representatives of the United States Department of Labor was, in fact, illegal.
- 10) Defendant understands that he has a right to have a restitution and reparation hearing and that he is giving up that right to have such a hearing. Defendant understands that restitution and reparation amounts to \$230,000.00 and by giving up his right to a restitution and reparation hearing acknowledges and agrees that the correct restitution and reparation amount is \$230,000.00.
- 11) Further, in consideration for and as part of the plea agreement in this matter, Defendant hereby waives and relinquishes his right to appeal from any judgment of conviction, and from any proceedings herein that may result from this prosecution. Defendant has been advised of the right to appeal, the right to be represented by an attorney on appeal, and the right to have an attorney assigned on appeal if he cannot afford one. It is Defendant's understanding and intention that this agreement will be a complete and final disposition of the matter. Defendant makes this waiver knowingly and voluntarily after having been fully advised of his rights by the Court and having had a full and fair opportunity to discuss these matters with his attorneys. At the time of his plea, Defendant shall execute a written waiver of appeal relinquishing these rights.
- 12) Defendant waives any and all rights to any claim of defective jurisdiction under Article 20 of the Criminal Procedure Law, any claim of speedy trial under Criminal Procedure Law §§ 30.20 and 30.30, as well as any claim under the period of limitations pursuant to Criminal Procedure Law § 30.10 that are applicable to the felony and misdemeanor charges in the charging instrument.
- 13) Defendant understands and has discussed with his attorneys the potential disciplinary consequences of his guilty plea pertaining to any licenses he may have with the New York State Department of Health, the New York City Department of Health, and any other license, permit and professional permission he holds. Defendant has been advised that his guilty plea may subject him to revocation or suspension of his licenses, among other possible collateral consequences, including but not limited to the revocation and loss of his Papa John's Franchise Agreement at all Khokhar Papa John's Franchises. Defendant understands that the potential disciplinary consequences of his plea may be imposed in a separate proceeding. Defendant wishes to plead guilty to the

crime of Failure to Pay Wages regardless of any potential disciplinary consequences of his guilty plea, even if his guilty plea will cause any consequences to his licenses to operate a restaurant and/or pizzeria in New York or elsewhere. Defendant understands that he is bound by his guilty plea regardless of any potential disciplinary consequences of the plea. Accordingly, Defendant waives any and all challenges to his guilty plea and sentence based on any potential disciplinary consequences, and agrees not to seek to withdraw his guilty plea, or to file a direct appeal or any kind of collateral attack challenging his guilty plea, conviction, or sentence, based on any licensure or other professional consequences of his guilty plea.

14) Defendant has been advised and acknowledges that his failure to appear at any required court appearance is a violation of this agreement and the case will move forward in his absence and he may be sentenced to the maximum term of imprisonment of one (1) year and a fine of \$20,000.00 as authorized by law.

15) Defendant hereby agrees to enter a plea of guilty in accordance with the terms of the plea offer that has been made, having consulted with his attorneys and having been advised of all of the rights listed above.

h. Defendant acknowledges that he has consulted with his attorneys about the immigration consequences of this guilty plea and has been advised that if he is not a United States citizen, Defendant's guilty plea may subject Defendant to immigration proceedings and removal or deportation from the United States. Defendant understands that the immigration consequences of his plea will be imposed in a separate proceeding before the immigration authorities. Defendant wishes to plead guilty to the offenses agreed upon herein regardless of any immigration consequences of this plea, even if this plea will cause the Defendant's removal from the United States. Defendant understands that Defendant is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, Defendant waives any and all challenges to his guilty plea and sentence based on any immigration consequences, and agrees not to seek to withdraw his guilty plea, or to file a direct appeal or any kind of collateral attack challenging his guilty plea, conviction, or sentence, based on any immigration consequences of his guilty plea

i. Defendant is represented by his attorneys, Ford & Harrison LLP and BahnMulter LLP. Defendant acknowledges that his attorneys are simultaneously representing co-Defendant BMY Foods Inc. Defendant further acknowledges that he has been informed that his constitutional right to the assistance of counsel may be substantially impaired if his lawyers are jointly representing him and co-Defendant. Defendant acknowledges that he has been informed by counsel that there is a possible conflict of interest in such joint representation; for example, he and co-Defendant may have individual defenses to the crimes charged and covered by this agreement that are contradictory or are inconsistent. In addition, Defendant further understands that he is entering into a plea agreement that is conditioned on co-Defendant entering into a plea agreement simultaneously, and that because they may have different levels of guilt, understands that a joint plea in such circumstances may rise to a potential conflict of interest. Defendant acknowledges that his decision to proceed with the same attorneys is an informed exercise of his right to retain counsel of his own choice. Defendant further acknowledges that he has chosen to

not retain separate counsel, and that his consent to continued representation by Ford & Harrison LLP and BahnMulter LLP is being made voluntarily and intelligently and that it is in the best interest of the Defendant.

j. Upon entering his guilty plea Defendant will allocute under oath concerning the following facts:

Between January 2012 and August 2014, Defendant was, and still is, the 100% owner of co-Defendant BMY Foods Inc. with a central office location at 11 E. 183<sup>rd</sup> St., Bronx NY 10453 prior to July 2014 and at 1979 Jerome Ave., Bronx, NY 10453 since July 2014. At varying times during this time period, Defendant and co-Defendant BMY Foods Inc. employed numerous workers at the Papa John's franchises located at: 1979 Jerome Ave., Bronx, NY 10453; 868 E. Tremont Ave., Bronx, NY 10460; 1520 Westchester Ave., Bronx, NY 10472; 11 E. 183rd St., Bronx, NY, 10453; 3746 3rd Ave., Bronx, NY 10456; 1010 Southern Blvd., Bronx, NY 10459; 475 Willis Ave., Bronx, NY 10455; 362 E. 204th St., Bronx, NY 10467; and 2733 White Plains Road, Bronx, NY 10467. Defendant and co-Defendant BMY Foods Inc. failed to pay all employees proper wages earned within seven calendar days after the end of the week in which said wages were earned. Specifically, the Defendant and co-Defendant BMY Foods Inc. failed to pay some employees minimum wage for all hours worked and failed to pay some employees one and one-half times their regular rate for hours worked in excess of forty per workweek, instead paying some employees at just their regular rate for hours worked in excess of forty per workweek. Between August 2013 and December 2014, Defendant and co-Defendant BMY Foods Inc. had some employees use fictitious second names in order to hide overtime hours worked in the restaurants' timekeeping system. In particular, some employees had to log in under their real names for their first forty hours of work per week and then had to log in under false names for their hours over forty per week. Defendant and co-Defendant BMY Foods Inc. paid these employees by check for the hours worked under the real names and paid them in cash at sub-overtime rates for the hours worked over 40 per week under fictitious names. Between January 2012 and August 2014, the failure of Defendant and co-Defendant BMY Foods Inc. to pay at least minimum wage and overtime for all hours worked at the nine Papa John's franchise locations resulted in underpayments to workers of \$230,000.00.

4. **Restitution and Fines:** Defendant shall pay \$230,000.00 in restitution and reparation pursuant to Penal Law § 60.27 to the OAG for ultimate distribution to the Khokhar Papa John's Franchises' employees, as set forth in the Wage Underpayment Summary Audit attached as Exhibit A. Defendant shall pay the restitution and reparation as follows:

a. On or before August 15-, 2015, the Defendant will tender the sum of \$50,000.00 to the OAG as restitution and reparation for unpaid wages. Payment must be made by a cashier or certified check made payable to "Wage and Hour Division – Labor" with "Case No. 1697540" written on the face of the check, and with "Back Wages" written on the face of check. The check must be delivered to the Assistant Attorney General present at court or mailed to the Office of the Attorney General, c/o Assistant Attorney General Benjamin Holt, 120 Broadway, New York, NY 10271.

b. On or before November 15, 2015, the Defendant will tender the sum of \$120,000.00 to the OAG as additional restitution and reparation for unpaid wages. Payment must be made by a cashier or certified check made payable to "Wage and Hour Division – Labor" with "Case No. 1697540" written on the face of the check, and with "Back Wages" written on the face of the check. The check must be delivered to the Assistant Attorney General present at court or mailed to the Office of the Attorney General, c/o Assistant Attorney General Benjamin Holt, 120 Broadway, New York, NY 10271.

c. On or before July 15, 2016, the Defendant will tender the remaining sum of \$60,000.00 to the OAG as restitution and reparation for unpaid wages. Payment must be made by a cashier or certified check made payable to "Wage and Hour Division – Labor" with "Case No. 1697540" written on the face of the check, and with "Back Wages" written on the face of the check. The check must be delivered to the Assistant Attorney General present at court or mailed to the Office of the Attorney General, c/o Assistant Attorney General Benjamin Holt, 120 Broadway, New York, NY 10271.

d. The parties shall request that sentencing be adjourned until at least 90 days from the date that defendant signs this plea agreement, and if Defendant does not pay the restitution and reparation as described above in paragraphs 4(a) and 4(b) prior to sentencing, then Defendant will be deemed not in compliance with this agreement and may be sentenced in accordance with paragraph 8 of this agreement.

e. OAG will recommend that the Court impose a minimum fine of \$500.00 under Labor Law 198-a(1). The Court may impose a surcharge or a crime victim's assistance fee at its discretion.

5. Within 90 days of the date of his guilty plea, Defendant as president of the Khokhar Papa John's Franchises shall file amended New York State Department of Taxation and Finance Form NYS-45 Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Returns for the Khokhar Papa John's Franchises covering the period from January 2012 to December 2014 with the State of New York. Defendant shall provide copies of such amended returns to OAG, shall accurately report all wages paid to employees during this time period, and shall be liable for any monies due to the State of New York as a result of the filing of such amended returns. Additionally, for a period of three years from the date that Defendant is sentenced, Defendant shall provide copies to the OAG of all New York State Department of Taxation and Finance NYS-45 Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Returns that Defendant files with the State of New York for the Khokhar Papa John's Franchises. The copies shall be mailed to the Office of the Attorney General, c/o Assistant Attorney General Benjamin Holt, 120 Broadway, New York, NY 10271.

6. It is a violation of this agreement if:

a. Defendant fails to deliver or mail the restitution and reparation payments to the OAG as set forth in paragraph 4;

b. Defendant as president of the Khokhar Papa John's Franchises fails to file amended New York State Department of Taxation and Finance Form NYS-45 Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Returns as set forth in paragraph 5; or

c. Defendant violates the Labor Law or any term of this agreement or commits any other crime contained in either the Labor or Penal Laws of the State of New York before sentencing.

7. If the OAG, in its sole discretion, determines that the Defendant has fully complied with this agreement:

a. The OAG will recommend that the Court sentence Defendant to incarceration for 60 days, a conditional discharge for a period of one (1) year, payment of restitution and reparation in the amount of \$230,000.00 as set forth in paragraph 4, and payment of the mandatory fine under Labor Law § 198-a(1) in the amount of \$500.00. The Court may impose a mandatory surcharge and the crime victims' assistance fee as well as any fine permissible under the Penal or Labor Law.

b. Defendant understands that the Court has the authority to impose any lawful sentence pursuant to the pleas of guilty. The maximum permissible sentence for the crime of Failure to Pay Wages under Labor Law § 198-a(1) is one year in jail or probation for a period of three years, a fine of no more than \$20,000.00, restitution and reparation, a surcharge payable to the Court, and a crime victim's assistance fee.

8. If Defendant does not comply with this agreement in any respect, including failing to pay the restitution and reparation prior to sentencing as described above in paragraph 4, then the OAG reserves the right to recommend that the Court sentence the Defendant to up to 1 year incarceration, payment of restitution and reparation in the amount of \$230,000.00, and payment of the maximum fine of \$20,000.00 allowable under the law.

9. It is further understood that acceptance of the plea and sentence specified in this agreement is subject to approval of the Court. In the event the Court does not approve the plea or sentence, the parties may agree to revise the terms in writing, such that it is acceptable to the Court, or either party, in writing, may terminate this agreement.


10. This agreement is limited to the New York State Office of the Attorney General and cannot bind other government agencies.

11. The OAG and Defendant reserve all rights under the law to make statements or submissions to the Court in connection with sentencing, not inconsistent with the provisions of this agreement.

12. This agreement consists of 8 pages including the signatory pages.

Dated: New York, New York  
July 15, 2015

ERIC T. SCHNEIDERMAN  
Attorney General of  
the State of New York

By:   
Benjamin Holt  
Assistant Attorney General

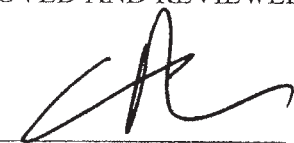
I, Abdul Jamil Khokhar, have read the entire agreement and certify that the statements made in it are true to the best of my knowledge. I understand all of its terms after fully and carefully consulting with my attorneys. My plea of guilty is given freely, voluntarily, knowingly, and without coercion of any kind. No threats or promises, other than the promises contained in this agreement, have been made to me to induce me to plead guilty. 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 as my mind is clear and of sound judgment. I am entering into the plea contained in this agreement knowingly, intelligently and voluntarily, and have signed it in the presence of my counsel.

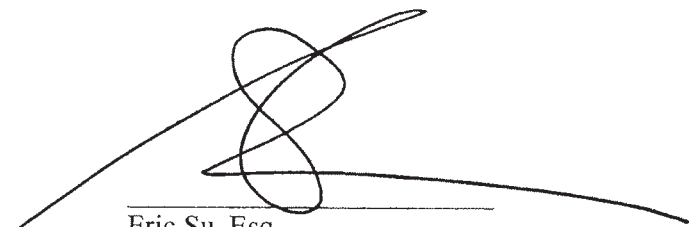
Dated: New York, New York  
July 14, 2015

DANIELLE J MOSS  
NOTARY PUBLIC, State of New York  
No. 021A06267606  
Qualified in Kings County  
Commission Expires August 20, 2017

  
Abdul Jamil Khokhar

APPROVED AND REVIEWED BY:

  
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