IN THE CIRCUIT COURT OF
COLBERT COUNTY, ALABAMA

STATE OF ALABAMA,	)	
	)	
	)	
v.	)	
	)	**Case No.**
GREGORY AZIZ,	)	
	)	**INDICTMENT**
	)	
DEFENDANT.	)	
	)	
	)	
	)	

The Grand Jury Charges that:

Introduction

At all times relevant to this Indictment in Colbert County, Alabama and elsewhere:

Relevant Persons and Entities

1. The Retirement Systems of Alabama ("RSA") is the public corporation in charge of administering the retirement funds of the employees and teachers of the State of Alabama. RSA entered into a short term financing agreement, not to exceed 36 months, with National Steel Car, Limited to build a railcar manufacturing facility.

2. National Steel Car, Limited ("NSC") is a railcar manufacturer with a principal place of business in Hamilton, Ontario, Canada.

3. GREGORY AZIZ is the Chairman and CEO of NSC, GREGORY AZIZ controls the business activities of NSC, GREGORY AZIZ owns

substantially all of NSC. Seeking to expand NSC's operations into the United States, by fraudulent means, GREGORY AZIZ entered into a financing agreement through which RSA would provide financing to construct a railcar manufacturing facility in Colbert County, Alabama.

4. WARREN AZIZ is the brother, business associate, and close confidant of GREGORY AZIZ and assisted GREGORY AZIZ (hereinafter when this Indictment uses the term "the AZIZS", it is the intent of the Grand Jury that the reference is to both GREGORY AZIZ and WARREN AZIZ) with the responsibility of controlling the construction of the railcar manufacturing facility in Colbert County, Alabama, and had knowledge of the falsity of, and participated in, all misrepresentations and omissions made to RSA by GREGORY AZIZ.

5. National Alabama Corporation ("NAC") is a corporation created by the AZIZS to construct and operate the railcar manufacturing facility in Colbert County, Alabama. NAC's principal place of business is in Cherokee, Alabama located in Colbert County, Alabama.

6. National Alabama, LP ("NALP") is a wholly owned shell partnership of NSC, formed by the AZIZS for the purpose of accepting funds from RSA and providing them to NAC, through another shell company called National Alabama, LLC, and to help perpetuate the AZIZS' plan to shield them from personal, civil, and criminal liability related to their scheme to defraud RSA.

7. The project supervisor and owner representative of NAC for the construction of NAC, the railcar manufacturing facility, was a company called Staubach, later merged with Jones Lang Lasalle ("JLL"). The general contractor for the construction of NAC was a company called Yates/Walbridge ("YW"). YW was a joint venture, formed by Yates Construction and Walbridge, for the purpose of building of the NAC railcar manufacturing facility.

The Construction of the NAC Facility

8. Between on or about January 2005 and July 2007, the AZIZS sought to expand NSC's railcar operations into the United States and began a site/victim selection process.

9. On or about September 2006, the AZIZS began to negotiate with RSA to discuss the possibility of RSA extending short term financing to NSC to begin the construction of the NAC facility. The AZIZS touted the alleged multimillion dollar economic impact of the project and its potential to create 1,800 plus jobs.

10. On January 25, 2007, RSA received an email from a lawyer working for the AZIZS, which described the requested financing from RSA for the NAC facility. Contained within the email was a proposal that the RSA consider short term financing of the construction costs of the plant, machinery, and equipment in order for NSC to proceed as promptly as possible to build the NAC facility. According to the email, arrangements for permanent financing would be made later which would take out any RSA financing.

11. A part of the proposed vehicle for repaying the RSA loan included utilizing tax-exempt bonds offered through the Gulf Zone Opportunity Act ("Go Zone"). These United States government authorized bonds would provide a much lower interest rate than that charged by RSA and therefore, if utilized by the AZIZS, reduce the cost to the AZIZS of the NAC facility.

12. On or about March 2007, unbeknownst to RSA, GREGORY AZIZ received a preliminary estimate from Staubach/JLL of $315,911,037.00. This estimate included the cost of constructing only the core and shell of the NAC facility, and did not include the process equipment necessary to manufacture a railcar, or any working capital.

13. On or about July 12, 2007, in an effort to persuade RSA to provide construction financing, the AZIZS submitted cost projections to RSA indicating a total project construction cost of $296,889,368.00. In contrast to the Staubach/JLL preliminary estimate received by GREGORY AZIZ, the AZIZS represented to RSA that they could construct the core and shell of the NAC facility for $195,261,486.00. In a breakdown of the costs, the AZIZS would use the remaining $102,536,978.00 to purchase the equipment and fixtures necessary to build the railcars. Additionally, the AZIZS requested $50,000,000.00 in start-up working capital, for a total requested loan in the amount of $346,889,368.00.

14. On or about July 18, 2007, GREGORY AZIZ entered into a construction loan agreement with RSA. The July 18, 2007 Construction Loan Agreement required GREGORY AZIZ to notify RSA if he were to learn

that the total cost of the project was ever projected to be more than $10 million dollars in excess of the cost of $296,889,368.00 represented to RSA in his July 12, 2007 submission and thereafter incorporated into the Construction Loan Agreement. Upon receipt of such a notice, the agreement provided that RSA would be allowed to withdraw from the agreement and seize any assets of the project.

15. The July 18, 2007 Construction Loan Agreement required that NSC be paid a management fee for managing the construction of the NAC facility in the amount of $200,000.00 per month. Unknown to RSA, GREGORY AZIZ planned to and did pay WARREN AZIZ $50,000.00 per month in addition to the $200,000.00 per month management fee, through a shell company called Vandalay Steel, to compensate WARREN AZIZ for helping GREGORY AZIZ defraud RSA.

16. Prior to agreeing to make short term financing available, RSA required GREGORY AZIZ to provide them a copy of his most recent financial statements. In response to RSA's request, GREGORY AZIZ provided copies of the 2005 financial statements of NSC. Further, the July 18, 2007 Construction Loan Agreement between GREGORY AZIZ and RSA required GREGORY AZIZ to provide copies of the most recent financial statements of the borrower. The only financial statement ever submitted by GREGORY AZIZ to RSA was the aforesaid 2005 financial statement of NSC. RSA relied upon NSC's 2005 financial statement when they entered into the Construction Loan Agreement. In the Construction Loan Agreement, GREGORY AZIZ represented to RSA that the financial statement that he had provided to them as a part of the

agreement was accurate and complete in all material respects as of the date of the agreement.

17. The July 18, 2007 Construction Loan Agreement further provided that efforts would be made to obtain low interest Go Zone bonds, or other permanent financing if the Go Zone bonds were not available, to pay off the much higher interest RSA financing.

18. The AZIZS were required by the July 18, 2007 Construction Loan Agreement to submit detailed draw requests as construction progressed with a spreadsheet attached detailing any variance from the budget proposed in the July 18, 2007 Construction Loan Agreement.

19. It was understood that the parties to the July 18, 2007 Construction Loan Agreement had agreed that NAC would have unfettered access to the NSC intellectual property rights required by NAC to construct the railcars.

20. On or about August 2007, prior to the disbursement of any funds by RSA, GREGORY AZIZ received the low bid for just the core and shell of the NAC facility from YW in the amount of $268,326,061.00, and awarded the contract to YW. The AZIZS never notified RSA that the projected cost of the facility was now approximately $70 million over budget.

21. On or about September, 2007 the AZIZS broke ground on the NAC facility in Colbert County, Alabama.

22. On or about October 2, 2007, the AZIZS caused to be submitted the first draw request on the RSA loan with the required

cost spreadsheet reflecting that the project was on budget when in fact they then well-knew that the ultimate cost of the project would be well in excess of $500 million dollars.

23. On or about October 14, 2007, WARREN AZIZ sent an email to GREGORY AZIZ recommending to GREGORY AZIZ that he replace legitimate NSC project supervisors with WARREN AZIZ and a team of WARREN AZIZ's choosing, suggesting that GREGORY AZIZ and WARREN AZIZ could not entrust their "half a billion dollar project" to anyone not carefully chosen by them. GREGORY AZIZ followed his brother's suggestion and thereafter WARREN AZIZ took over as the AZIZS manager of the construction of the NAC facility.

24. Between on or about July 2007 and December 2008, projected costs to build the NAC facility rose from approximately $300 million to approximately $700 million. The AZIZS never disclosed to RSA that they had known all along that the cost of the project would far exceed the budget given to RSA and it was a part of the AZIZS' fraudulent plan to not reveal this fact until they had drawn and spent substantially all of the original loan proceeds. As the AZIZS had planned, once most of the loan proceeds were spent, they reported and claimed that there had been unknown, and unexpected, and unavoidable cost overruns that generated a need for more money from RSA to complete the project.

25. Between on or about January 2005 and June 2007, GREGORY AZIZ was told by his then Chief Financial Officer ("CFO") that GREGORY AZIZ would be unable to build the railcar facility proposed to RSA in

the July 18, 2007 Construction Loan Agreement for $300 million and that, even if he could, the facility would be incapable of being an economically viable company at that cost. The CFO terminated his employment with GREGORY AZIZ when he learned that GREGORY AZIZ intended to go forward with the agreement anyway. GREGORY AZIZ never revealed the facts of this conversation or its results to RSA.

26. On or about April 2005, GREGORY AZIZ obtained a 100 million dollar line of credit, reflected on NSC's 2005 financial statements as having a zero balance due, but by on or about December 2006, GREGORY AZIZ had increased the line of credit to a total of $150 million dollars, which had a balance due of approximately $150 million dollars. This information was never disclosed to RSA and on July 18, 2007, at the time he entered into the loan agreement with RSA, he reaffirmed to RSA that the 2005 financial statements were a true and correct reflection of NSC's financial condition.

27. Paragraphs 11 and 17 are incorporated into this paragraph. Between on or about September 2006 and May 2008, GREGORY AZIZ expressed his intent to RSA to utilize low interest Go Zone bonds to retire the RSA short term financing, were Go Zone bonds made available. Based on GREGORY AZIZ's expressed intent to utilize Go Zone financing, substantial efforts were made to include Colbert County as a Go Zone approved county. In order to have Colbert County approved as Go Zone county, legislation was required to be passed by the Congress of the United States. GREGORY AZIZ was made aware in May 2008 that the Colbert County Go Zone legislation had cleared the House of

Representatives. In July 2008, the Colbert County Go Zone legislation cleared the Senate. Thereafter, Go Zone bond funding was available for the NAC facility.

28. In May 2008, knowing that his project was now more than $200 million dollars over budget, GREGORY AZIZ notified RSA that he no longer wanted the lower interest rate financing available through Go Zone bonds. To justify turning down the lower interest rate financing, he falsely claimed that what he had wanted all along was bonus "accelerated" depreciation for the project. In fact, GREGORY AZIZ turned down the Go Zone bonds as a part of the implementation of his fraudulent plan, to avoid being personally responsible for the repayment of the RSA loan, and to avoid civil and criminal liability for his fraud.

29. Between on or about October 2007 and December 2008, at a monthly rate, the AZIZS submitted the required updated project budget spreadsheets with draw requests and, knowingly in each and every one, falsely represented the then-known actual and projected costs. At the same time the AZIZS were submitting the required updated project budget spreadsheets and draw requests to RSA, JLL was providing to the AZIZS Master Budgets reflecting massive cost overruns. Unbeknownst to JLL and YW, the AZIZS were not providing the Master Budget information to RSA.

30. On or about April 2008, an employee of JLL asked GREGORY AZIZ, through GREGORY AZIZ's lawyers, if RSA was aware of the cost overruns. In response to the email, the employee was instructed by

GREGORY AZIZ that the inaccurate draw request spreadsheets were being submitted with the knowledge and acquiescence of RSA, which said instruction by GREGORY AZIZ was false and then known by GREGORY AZIZ to be false.

31. Between on or about January 2008 and July 2008, an employee of YW started to tell the Governor of Alabama and the Executive Director of RSA about cost overruns and was directed by GREGORY AZIZ to remain silent.

32. Between on or about September 2007 and December 2008, GREGORY AZIZ repeatedly falsely represented to the Governor of Alabama that the project was on time and on budget.

33. Between September 2006 and July 2008, GREGORY AZIZ was continuously and repeatedly told by representatives of the State of Alabama that bonus "accelerated" depreciation was not feasible or possible to obtain in connection with this project because it would not be revenue neutral and therefore would stand no chance of being approved by the United States Congress.

34. On or about August 2008, having been notified by his lawyers of the concern expressed in April 2008 by the JLL employee as to whether or not RSA was aware of the cost overruns, GREGORY AZIZ revealed to RSA that the project was over budget. At that time GREGORY AZIZ knew that the Master Budgets showed that the project was approximately $400 million over budget, but he nonetheless told RSA that the project was only $50 million over budget.

35. On or about November 2008, JLL provided the latest monthly Master Budget to the AZIZS which reflected a current project budget of $702,715,262.00. Thereafter, the AZIZS submitted a draw request reflecting that the current project budget was approximately $401 million dollars.

36. On or about November 2008, an agent of NSC was instructed by WARREN AZIZ not to disclose the Master Budget information reflecting the massive cost overruns to any of the other contractors and supervisory employees working on the railcar project.

37. On or about November 19, 2008, GREGORY AZIZ revealed to the RSA that he needed an additional $400 million dollars to complete the project and as part of a discussion about how the massive cost overruns occurred, said that he was "not sure what happened".

38. Between on or about October 2007 and November 2008, GREGORY AZIZ told an employee of YW that he would be very reluctant and uncomfortable making a representation to anyone that the NAC railcar facility could ever produce and sell more than 8,000 railcars per year.

39. Between on or about December 2008 and February 10, 2009, the AZIZS caused to be produced to RSA; sales, profit, and production figures representing that the NAC facility, if completed, could build and sell 12,000 railcars every year and generate sufficient profit to allow NAC to successfully repay a long-term loan from RSA, which would include the additional necessary funding to complete the railcar

facility in Colbert County. These manufacturing and sales figures were false and the AZIZS knew them to be false.

40. Between on or about December 2008 and February 10, 2009, the AZIZS directed the agent of NSC that prepared the 12,000 railcar per year production figures and the revenue estimates to manipulate the figures in whatever manner was necessary to make it appear that the increased construction financing indebtedness could be paid back with NAC operating revenue.

41. On or about February 10, 2009, RSA, unaware of the multiple omissions and misrepresentations alleged in paragraphs 1-40, entered into a revised February 10, 2009 Construction Loan Agreement with GREGORY AZIZ to provide the additional necessary funding to complete the railcar facility. The revised agreement provided that the aggregate amount of both loans would not exceed $625 million dollars. The revised agreement also provided that RSA would receive twenty percent of NAC's stock.

42. Between on or about February 10, 2009 and July 31, 2009, RSA began to learn of the AZIZS' knowing misrepresentations of material facts and omissions to reveal material facts as alleged in paragraphs 1-41 above. RSA began the process of terminating any further business relationship with the AZIZS and took steps to obtain complete control of NAC from the AZIZS. Had RSA known of the AZIZS' knowing misrepresentations of material fact and omissions to reveal material facts, they would not have entered into the July 18, 2007

Construction Loan Agreement and the February 10, 2009 revised Construction Loan Agreement and entered into a securities transaction.

COUNT ONE
(Securities Fraud, §8-6-17(a)(1))

43. The allegations contained in paragraphs 1 through 42 are realleged and incorporated as though fully set forth herein.

44. Between on or about September 2006 through on or about July 31, 2009, in Colbert County, Alabama and elsewhere, GREGORY AZIZ the defendant, did willfully and unlawfully, directly or indirectly, in connection with the offer, sale, or purchase of any security, to wit: stock, employ a device, scheme or artifice to defraud, to wit: he devised and implemented a plan to obtain millions of dollars of investment funds from RSA to construct a railcar facility in Colbert County, Alabama by misrepresenting its cost and its economic viability, resulting in a substantial financial loss to RSA, in violation of Section 8-6-17(a)(1) Code of Alabama 1975, against the peace and dignity of the State of Alabama.

COUNT TWO
(Securities Fraud, §8-6-17(a)(3))

45. The allegations contained in paragraphs 1 through 42 are realleged and incorporated as though fully set forth herein.

46. Between on or about September 2006 through on or about July 31, 2009, in Colbert County, Alabama and elsewhere, GREGORY AZIZ, the defendant, did willfully and unlawfully, directly or indirectly, in connection with the offer, sale, or purchase of any security, to wit:

stock, engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person, to wit: he devised and implemented a plan to obtain millions of dollars of investment funds from RSA to construct a railcar facility in Colbert County, Alabama by misrepresenting its cost and its economic viability, resulting in a substantial financial loss to RSA, in violation of Section 8-6-17(a)(3) Code of Alabama 1975, against the peace and dignity of the State of Alabama.

COUNT THREE
(Securities Fraud, §8-6-17(a)(2))

47. The allegations contained in paragraphs 1 through 42 are realleged and incorporated as though fully set forth herein.

48. On or about February 10, 2009, in Colbert County, Alabama and elsewhere, GREGORY AZIZ, the defendant, did willfully and unlawfully, directly or indirectly, in connection with the offer, sale, or purchase of any security, to wit: stock, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, to wit: the defendant failed to reveal to RSA that he had known since between on or about September 2006 up to and including February 10, 2009 that he was going to defraud RSA into providing him with funds to build a railcar manufacturing facility by offering as means of repayment to RSA the claim that if Go Zone bond funding were made available to him he would use such funding to pay back the funds provided to him by RSA, when he

had known all along that he would not take Go Zone funding, in violation of Section 8-6-17(a)(2) Code of Alabama 1975, against the peace and dignity of the State of Alabama.

COUNT FOUR
(Securities Fraud, §8-6-17(a)(2))

49. The allegations contained in paragraphs 1 through 42 are realleged and incorporated as though fully set forth herein.

50. On or about February 10, 2009, in Colbert County, Alabama and elsewhere, GREGORY AZIZ, the defendant, did willfully and unlawfully, directly or indirectly, in connection with the offer, sale, or purchase of any security, to wit: stock, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, to wit: the defendant failed to reveal to RSA that he had known since between on or about January 2006 up to and including February 10, 2009 that after deceiving RSA into providing him with $350 million dollars to build a railcar facility he would reveal that the true cost of the facility was approximately $650 million dollars and demand more money while claiming that the need for the additional money was due to unknown and unavoidable cost overruns, in violation of Section 8-6-17(a)(2) Code of Alabama 1975, against the peace and dignity of the State of Alabama.

COUNT FIVE
(Securities Fraud, §8-6-17(a)(2))

51. The allegations contained in paragraphs 1 through 42 are realleged and incorporated as though fully set forth herein.

52. On or about February 10, 2009, in Colbert County, Alabama and elsewhere, GREGORY AZIZ, the defendant, did willfully and unlawfully, directly or indirectly, in connection with the offer, sale, or purchase of any security, to wit: stock, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, to wit: the defendant failed to disclose to RSA on February 10, 2009 that he materially misrepresented the financial condition of NSC at the time he entered into the July 18, 2007 Construction Loan Agreement, in violation of Section 8-6-17(a)(2) Code of Alabama 1975, against the peace and dignity of the State of Alabama.

COUNT SIX
(Securities Fraud, §8-6-17(a)(2))

53. The allegations contained in paragraphs 1 through 42 are realleged and incorporated as though fully set forth herein.

54. On or about February 10, 2009, in Colbert County, Alabama and elsewhere, GREGORY AZIZ, the defendant, did willfully and unlawfully, directly or indirectly, in connection with the offer, sale, or purchase of any security, to wit: stock, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, to wit: the defendant failed to

disclose at the time the defendant entered into the February 10, 2009 revised Construction Loan Agreement that at the time of the original July 18, 2007 Construction Loan Agreement the defendant no longer owned and/or had the unfettered ability to use the intellectual property required for NAC to manufacture railcars, in violation of Section 8-6-17(a)(2) Code of Alabama 1975, against the peace and dignity of the State of Alabama.

COUNT SEVEN
(Securities Fraud, §8-6-17(a)(2))

55. The allegations contained in paragraphs 1 through 42 are realleged and incorporated as though fully set forth herein.

56. Between on or about November 19, 2008 and February 10, 2009, in Colbert County, Alabama and elsewhere, GREGORY AZIZ, the defendant, did willfully and unlawfully, directly or indirectly, in connection with the offer, sale, or purchase of any security, to wit: stock, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, to wit: during discussions with RSA held for the purpose of enticing RSA to loan additional funds, when asked how the project became $350 million to $400 million over budget, GREGORY AZIZ falsely claimed that he was "not sure what happened", in violation of Section 8-6-17(a)(2) Code of Alabama 1975, against the peace and dignity of the State of Alabama.

COUNT EIGHT
(Securities Fraud, §8-6-17(a)(2))

57. The allegations contained in paragraphs 1 through 42 are realleged and incorporated as though fully set forth herein.

58. Between on or about November 19, 2008 and February 10, 2009, in the Colbert County, Alabama and elsewhere, GREGORY AZIZ the defendant, did willfully and unlawfully, directly or indirectly, in connection with the offer, sale, or purchase of any security, to wit: stock, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, to wit: he falsely claimed to RSA that he could produce and sell 12,000 railcars per year at the NAC facility and thereby generate sufficient revenue to satisfy both the July 18, 2007 Construction Loan Agreement and the February 10, 2009 revised loan agreement which he sought to obtain, in violation of Section 8-6-17(a)(2) Code of Alabama 1975, against the peace and dignity of the State of Alabama.

COUNT NINE
(Securities Fraud, §8-6-17(a)(2))

59. The allegations contained in paragraphs 1 through 42 are realleged and incorporated as though fully set forth herein.

60. Between on or about November 19, 2008 and February 10, 2009, in Colbert County, Alabama and elsewhere, GREGORY AZIZ, the defendant, did willfully and unlawfully, directly or indirectly, in connection with the offer, sale, or purchase of any security, to wit: stock, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of

the circumstances under which they are made, not misleading, to wit: that NSC's Chief Financial Officer had told him in 2007 that he could not build a railcar manufacturing facility at a cost of $300 million dollars that would be economically viable, in violation of Section 8-6-17(a)(2) Code of Alabama 1975, against the peace and dignity of the State of Alabama.

COUNT TEN
(Securities Fraud, §8-6-17(a)(2))

61. The allegations contained in paragraphs 1 through 42 are realleged and incorporated as though fully set forth herein.

62. On or about February 10, 2009, in Colbert County, Alabama and elsewhere, GREGORY AZIZ, the defendant, did willfully and unlawfully, directly or indirectly, in connection with the offer, sale, or purchase of any security, to wit: stock, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, to wit: the defendant failed to reveal to RSA on February 10, 2009 that NSC had a financial statement for the year 2006 reflecting millions of dollars in additional indebtedness not reflected on the 2005 financial statement submitted to RSA at the time of the July 18, 2007 Construction Loan Agreement, in violation of Section 8-6-17(a)(2) Code of Alabama 1975, against the peace and dignity of the State of Alabama.

Bryce Graham, Jr.
District Attorney Colbert County, Alabama

Stephen P. Feaga
Deputy Director, Alabama Securities Commission
Assistant Attorney General

Amanda L. Senn
Associate Counsel, Alabama Securities Commission
Deputy Attorney General

Witness:
Charles G. Harrison
Special Agent, Alabama Securities Commission