

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**FILED
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**U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS**

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**UNITED STATES OF AMERICA,
Plaintiff,**

v.

**GREGORY SCHNABEL,
Defendant.**

CASE NO.

Judge Graham

**Violations:
18 U.S.C. § 371**

INFORMATION

The UNITED STATES charges that at all times material to this Information, in the Southern District of Ohio, and elsewhere:

**COUNT 1
Conspiracy to Commit Criminal Offenses
18 U.S.C. § 371**

Introduction

Persons and Business Entities

1. Defendant GREGORY SCHNABEL ("Defendant SCHNABEL") was a resident of New York, who served as the President of GRC Fuels Inc., as well as the principal officer of Gristle LLC.
2. GRC Fuels Inc. ("GRC") was a registered New York company located in Walton, New York, and Oneonta, New York, at various times. GRC operated as a broker and trader of renewable fuel, renewable fuel credits, and feedstock (typically animal fats and vegetable oils) used to make renewable fuel. Defendant SCHNABEL controlled and managed the business of GRC.

3. Gristle LLC (“Gristle”) was a registered New York company located at various times at the same address as GRC in Oneonta, New York. Gristle operated as a trader and reseller of feedstock to the renewable fuels industry. Defendant SCHNABEL controlled and managed the business of Gristle.
4. New Energy Fuels LLC (“NEF”) was a business in Waller, Texas, registered with the Environmental Protection Agency (“EPA”) to process feedstock into biodiesel and generate valuable renewable fuel credits, and with the Internal Revenue Service (“IRS”) to claim tax credits associated with the production of biodiesel.
5. Chieftain Biofuels LLC (“Chieftain”) was a business in Logan, Ohio, registered with the EPA to process feedstock into biodiesel and generate valuable renewable fuel credits.
6. Dean Daniels was a resident of Florida who served as an officer and employee of NEF and Chieftain.
7. “Channelview” was an oil blender and wholesaler based in Channelview, Texas, whose actual name is known to the United States.
8. “Credit Buyer” was a marketer and trader of fuel credits, including EPA renewable fuel credits, based in Texas, whose actual name is known to the United States.
9. Unity Fuels LLC (“Unity”) was a New Jersey corporation with locations in New Jersey and New York. Unity operated a facility that cleaned and processed used cooking oil to be resold as recycled vegetable oil (“RVO”). Unity did business under the name Grease Lightning at various times.
10. Malek Jalal was a resident of New York who served as manager and co-owner of Unity at various times.

11. Triton Energy LLC (“Triton”) was an Indiana business located in Waterloo, Indiana. Triton operated a production plant registered with the EPA to process feedstock, specifically animal fats and vegetable oils, into renewable fuel and claim valuable renewable fuel credits.
12. Fred Witmer was a resident of Indiana who served as the president and CEO of Triton.
13. Gen-X Energy Group (“Gen-X”) was a business in Pasco, Washington, registered with the EPA to process feedstock into renewable fuel and generate valuable renewable fuel credits.
14. “Ohio Blender” was a waste treatment and fluid reclamation business operating in Hamilton County, Ohio.

Renewable Identification Numbers

15. Laws passed by Congress, particularly the Energy Independence and Security Act of 2007 (“EISA”), required the EPA and the IRS to promote renewable fuel production and use in the United States.
16. To this end, the EPA created a program requiring petroleum refiners and importers to have renewable fuel in their product portfolio. Under this program, refiners and importers must produce a certain amount of renewable fuel or, as an alternative to physically producing this fuel, they could purchase credits (also called “renewable identification numbers” or “RINs”) from renewable fuel producers.
17. Renewable fuel producers generate RINs when they produce qualifying renewable fuels, such as biodiesel, in compliance with EPA regulations. Once a RIN is generated, it can be traded or sold on the open market. During the relevant time period a RIN was worth ...

18. RINs could be sold with the volume of fuel they were generated on, or, if lawfully separated from the fuel, they could be sold independently of the fuel. There are various regulations governing when and how RINs can be separated from the underlying fuel. After July 1, 2010, RIN transactions were reported electronically through the online EPA Moderated Transaction System (EMTS).
19. RINs could only be generated for the production of biodiesel if the biodiesel produced met a set of industry standards known as ASTM D6751.
20. There were additional regulations governing the sale and use of fuels on which RINs had been generated, including the restriction that RINs could only be generated on a quantity of fuel once.

Refundable Tax Credits

21. The EISA also tasked the IRS with encouraging the production and use of renewable fuels. In particular, it tasked the IRS with administering tax credits associated with the production of various renewable fuels and fuel mixtures, including:
 - a. The Biodiesel Mixture Credit (“BMC”), 26 U.S.C. § 6426(c), which entitles registered claimants to a one dollar tax credit for every gallon of biodiesel used to produce a mixture of biodiesel and petroleum-based “taxable” fuel which is then sold for use as a fuel or used as a fuel by the claimant.
 - b. The Alternative Fuel Mixture Credit (“AFMC”), 26 U.S.C. § 6426(e), which entitles registered claimants to a 50 cent tax credit for every gallon of alternative fuel used to produce a mixture of alternative fuel and taxable fuel which is then sold for use as a fuel or used as a fuel by the claimant.

- c. The Alternative Fuel Credit (“AFC” or “AF Credit”), 26 U.S.C. § 6426(d), which entitles registered claimants to a 50 cent tax credit for every gallon of alternative fuel sold for use in (or used in) a motor vehicle or motorboat, provided they comply with additional regulatory requirements.
22. Tax credits could only be claimed on a given quantity of fuel one time.
23. It was illegal to claim these credits unless the fuel was produced, bought, blended, and sold in compliance with IRS regulations. In particular, it was illegal to claim the BMC unless the underlying biodiesel met ASTM D6751 and the blender submitted a legitimate “Certificate for Biodiesel” to the IRS.
24. Many of the tax credits created by the EISA were refundable, meaning that they could reduce a registered recipient’s excise tax liability below zero, entitling them to a refund, or payment, from the IRS.
25. Since their inception, several of these tax credits have expired only to be later reinstated. For instance, the BMC, AFMC, and AFC lapsed at the end of 2011, only to be subsequently reinstated (with some modifications) by the American Taxpayer Relief Act of 2012 (Pub.L. 112-240) in early 2013. The American Taxpayer Relief Act also allowed registered companies to apply for retroactive credits for qualifying activities in 2012.

Summary Allegations

26. Beginning on or about July 19, 2011, and continuing thereafter until a time unknown to the United States, but not earlier than in or about March 2012, in the Southern District of Ohio and elsewhere, Defendant GREGORY SCHNABEL did knowingly and willfully

combine, conspire, confederate, and agree with Dean Daniels and others known and unknown to the United States, to commit offenses against the United States, specifically:

- a. to make and present claims, specifically claims for the Biodiesel Mixture Credit, upon and against the United States and the IRS, knowing such claims to be false, fictitious, and fraudulent, in violation of 18 U.S.C. § 287;
- b. to transmit and cause to be transmitted by means of wire and radio communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, in violation of 18 U.S.C. § 1343.

Means and Methods of the Conspiracy

Among the means and methods employed by Defendant SCHNABEL and his co-conspirators to carry out the conspiracy and effect its unlawful objects were the following:

New Energy Fuels

27. It was part of the conspiracy that NEF fraudulently generated biodiesel RINs on fuel that was not biodiesel and did not meet ASTM D6751. NEF then sold the fuel, with attached biodiesel RINs to GRC using EMTS.
28. It was part of the conspiracy that NEF claimed biodiesel tax credits, specifically the BMC, on this fuel. The proceeds from these claims were shared with GRC, including through the prices that NEF charged GRC for fuel.
29. It was part of the conspiracy that Defendant SCHNABEL separated the attached RINs and sold them to Credit Buyer under false and fraudulent pretenses using EMTS.

30. It was part of the conspiracy that Defendant SCHNABEL sold the loads of fuel to Channelview as a fuel commonly referred to as “bunker” or “cutter.”

Chieftain Biofuels

31. It was part of the conspiracy between Defendant GREGORY SCHNABEL, Dean Daniels, and others known to the United States to expand and shift its operations from NEF, in Waller, Texas, to Chieftain, an existing renewable fuel facility, in Logan, Ohio.
32. It was part of the conspiracy that Defendant SCHNABEL arranged for loads of feedstock to be shipped to Chieftain where Dean Daniels and others would minimally process it, without producing biodiesel.
33. It was part of the conspiracy that Dean Daniels and others caused Chieftain to generate invalid biodiesel RINs for fuel that was not biodiesel and to submit fraudulent requests to the IRS for BMCs.
34. It was part of the conspiracy that Chieftain sold the fuel to GRC with biodiesel RINs attached.
35. It was part of the conspiracy that Defendant SCHNABEL separated and caused others to separate the RINs in EMTS before selling them to Credit Buyer under false and fraudulent pretenses.
36. It was part of the conspiracy that Defendant SCHNABEL sold and caused GRC to sell the fuel to various entities including Unity Fuels.

Overt Acts

In furtherance of the conspiracy, and to accomplish the objectives of the conspiracy, Defendant SCHNABEL and others did commit the following overt acts, among others, in the Southern District of Ohio and elsewhere:

New Energy Fuels

Overt Act 1 On or about July 19, 2011, Defendant SCHNABEL prepared a purchase agreement to provide 400,000 gallons per month of “Biomass-Based Renewable Fuel-(Neat Methyl ester)” to Channelview. The specifications listed on the contract were identical to the ones in an earlier contract between NEF and Channelview.

Overt Act 2 On or about July 27, 2011, after exchanging multiple drafts of the purchase agreement with Channelview, Defendant SCHNABEL signed a purchase agreement for “Light Burner Fuel-(BioMasFuels).” The specifications listed on the contract were unchanged.

Overt Act 3 On or about November 17, 2011, Defendant SCHNABEL sent documents via email to Credit Buyer to support the false claim that the RINs it purchased from GRC were generated on legitimate biodiesel.

Chieftain Biofuels

Overt Act 4 On or about September 12, 2011, Dean Daniels sent an email to Defendant SCHNABEL and others about taking over an existing facility in Logan, Ohio.

Overt Act 5 On or about September 12, 2011, Defendant SCHNABEL sent an email to a potential customer of the fuel to be produced at Chieftain.

- a. In the email, Defendant SCHNABEL stated “The producers want to takeover a facility in Ohio and wants me to know contractually how much contractually I can sell 150,000 gallons of product a week.”
- b. Defendant SCHNABEL also acknowledged that “the lab analysis you did on the dark bio fuel...is accurate. I just had one done...I attached the lab results

for your internal use.” The lab results attached to the email failed several of the parameters listed in ASTM D6751.

Overt Act 6 On or about September 28, 2011, Defendant SCHNABEL met with representatives of Chieftain regarding the possibility of signing a lease to operate its facility in order to generate RINs and tax credits.

Overt Act 7 On or about October 5, 2011, Dean Daniels signed an agreement to lease the Chieftain facility at 3219 Logan Horns Mill Road, in Logan, Ohio.

Overt Act 8 On or about November 21, 2011, Defendant SCHNABEL sent an email assuring Credit Buyer that he would provide back-up documents supporting Chieftain’s claimed production of biodiesel.

All of which is a violation of 18 U.S.C. § 371.

COUNT 2
Conspiracy to Commit Criminal Offenses
18 U.S.C. § 371

37. Paragraphs 1 through 25 and 27 through 36 of this Information are realleged and expressly incorporated herein as if set out in full.

Summary Allegations

38. Beginning on or about September 30, 2011, and continuing thereafter until on or about May 30, 2012, in the Southern District of Ohio and elsewhere, Defendant GREGORY SCHNABEL did knowingly and willfully combine, conspire, confederate, and agree with others known and unknown to the United States, including Malek Jalal, to commit offenses against the United States, specifically:

- a. to make and present claims for the Biodiesel Mixture Credit, Alternative Fuel Mixture Credit, and Alternative Fuel Credit, upon and against the United States and

the IRS, knowing such claims to be false, fictitious, and fraudulent, in violation of 18 U.S.C. § 287;

- b. to transmit and cause to be transmitted by means of wire and radio communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, in violation of 18 U.S.C. § 1343.

Means and Methods of the Conspiracy

Among the means and methods employed by Defendant SCHNABEL, Jalal, and their co-conspirators to carry out the conspiracy and effect its unlawful objects were the following:

- 39. It was part of the conspiracy that Defendant SCHNABEL purchased and caused GRC to purchase fuel from Triton and Chieftain. When GRC purchased this fuel, it had RINs attached and tax credits had been claimed (until their expiration at the end of 2011).
- 40. It was part of the conspiracy that Defendant SCHNABEL sold and caused GRC to sell some of this fuel to Unity pursuant to his agreement with Jalal.
- 41. It was part of the conspiracy that Unity sold the fuel (mixed with smaller amounts of other material) back to GRC and Gristle relabeled as Recycled Vegetable Oil Blend or RVOB.
- 42. It was a part of the conspiracy that after receiving the purported RVOB, Defendant SCHNABEL caused GRC and Gristle to sell it to Chieftain or Triton as feedstock for making additional loads of fuel. The “RVOB” would then be re-processed, RINs would be generated on it again, tax credits claimed a second time, and the resulting “fuel” (and invalid RINs) would again be purchased by GRC.

43. It was part of the conspiracy that Defendant SCHNABEL separated and caused others to separate these RINs from the fuel using EMTS. Defendant SCHNABEL thereafter fraudulently sold and caused GRC to sell the invalid RINs to Credit Buyer.

Overt Acts

In furtherance of the conspiracy, and to accomplish the objectives of the conspiracy, Defendant SCHNABEL and others did commit the following overt acts, among others, in the Southern District of Ohio and elsewhere:

Overt Act 1 On or about September 30, 2011, at the direction of Jalal, an employee of Unity sent Defendant SCHNABEL a contract documenting Unity's purchase of "Rinless Biodiesel B99." Shortly thereafter, the same employee sent Defendant SCHNABEL another email stating, "Greg, Some changes were made to the purchase contract. If any questions please let us know." Attached to the email was a contract for "Rinless B99 Biomass Based HO [heating oil] Blend Stock."

Overt Act 2 On or about October 18, 2011, Defendant SCHNABEL sent Malek Jalal an email stating "Trucks aside, I am now prepared to increase volume very aggressively."

Overt Act 3 Between on or about October 18, 2011, and on or about February 13, 2012, Defendant SCHNABEL purchased and caused GRC to purchase approximately 240 truckloads of fuel from Chieftain to be sold to Unity, and arranged for its transportation to Unity in Newark, New Jersey, from Logan, Ohio. Each act constituted a separate overt act in furtherance of the conspiracy.

Overt Act 4 Between on or about October 18, 2011, and on or about February 13, 2012, Defendant SCHNABEL purchased and caused GRC to purchase approximately

280 truckloads of RVOB from Unity, and arranged for its transportation to Chieftain in Logan, Ohio. Each act constituted a separate overt act in furtherance of the conspiracy.

COUNT 3
Conspiracy to Commit Criminal Offenses
18 U.S.C. § 371

44. Paragraphs 1 through 25 and 27 through 36 of this Information are realleged and expressly incorporated herein as if set out in full.
45. Beginning on or about March 1, 2012, and continuing thereafter until a date unknown to the United States, but no earlier than March 31, 2015, in the Southern District of Ohio and elsewhere, Defendant GREGORY SCHNABEL did knowingly and willfully combine, conspire, confederate, and agree with others known and unknown to the United States, including Fred Witmer, to commit offenses against the United States and to defraud the United States and agencies thereof, specifically:
 - a. to make and present claims, specifically claims for the Alternative Fuel Credit, upon and against the United States and the IRS, knowing such claims to be false, fictitious, and fraudulent, in violation of 18 U.S.C. § 287;
 - b. to transmit and cause to be transmitted by means of wire and radio communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, in violation of 18 U.S.C. § 1343.

Means and Methods of the Conspiracy

Among the means and methods employed by Defendant SCHNABEL and his co-conspirators to carry out the conspiracy and effect its unlawful objects were the following:

Triton RINs

46. It was part of the conspiracy that Defendant SCHNABEL purchased and caused GRC to purchase Triton's proprietary "Gen2 Renewable Diesel" ("Gen2") with assigned RINs. Gen2 could be used to generate RINs if, among other requirements, it was sold for use as a transportation fuel.
47. It was part of the conspiracy that Defendant SCHNABEL separated and caused others to separate the RINs generated by Triton on its Gen2 fuel.
48. It was part of the conspiracy that, after separating the RINs, Defendant SCHNABEL sold and caused GRC to sell the Gen2 fuel for uses other than transportation, including to Unity where it was blended with other material and sold back to GRC and Gristle, and to Ohio Blender in Hamilton County, Ohio, where it was resold for power generation, export, and other non-transportation applications.
49. It was part of the conspiracy that Defendant SCHNABEL fraudulently sold the RINs generated on the Gen2 fuel to Credit Buyer, falsely representing to Credit Buyer that these RINs had been sold by GRC for use in transportation.

Triton Tax Credits

50. Following the passage of the American Taxpayer Relief Act of 2012, Defendant SCHNABEL worked in concert with Triton Energy, Fred Witmer, and others known and unknown to the United States, to claim tax credits—specifically the \$.50/gallon AFC—for Gen2 fuel sold to GRC. The AFC requires the claimant to have used the fuel in (or

sold the fuel for use in) motor vehicles or motorboats. At the time, Triton was not registered to claim AF Credits.

51. It was part of the conspiracy that the parties created a series of contracts and invoices to falsely show that fuel previously sold to GRC had instead been sold by Triton to Gen-X.
52. It was part of the conspiracy that Gen-X requested and received AF Credits for this fuel. This money was then shared with Triton and GRC pursuant to false invoices.
53. It was part of the conspiracy that Triton, after receiving its registration, requested and received AF Credits for loads of fuel sold to GRC for non-qualifying uses.

Overt Acts

In furtherance of the conspiracy, and to accomplish the objectives of the conspiracy, Defendant SCHNABEL and others known and unknown to the United States, did commit the following overt acts, among others, in the Southern District of Ohio and elsewhere:

Overt Act 1 On or about March 1, 2012, Fred Witmer sent Defendant SCHNABEL an email with a “proposed PTD [product transfer document] attached.”

Overt Act 2 On or about March 12, 2012, Fred Witmer sent Defendant SCHNABEL an email describing their agreement.

Overt Act 3 Between on or about March 13, 2012, and continuing until no earlier than March 31, 2015, Triton sold GRC hundreds of truckloads of Gen2 fuel with RINs attached. Each purchase constituted a separate overt act in furtherance of the conspiracy.

Overt Act 4 Between on or about March 15, 2012, and continuing until no earlier than March 31, 2015, Defendant SCHNABEL used and caused others to use EMTS to

separate the RINs from the underlying fuel. Each separation constituted a separate overt act in furtherance of the conspiracy.

Overt Act 5 Between on or about March 15, 2012, and continuing until no earlier than June 30, 2014, Defendant SCHNABEL sold and caused GRC to sell Gen2 fuel for a variety of non-transportation uses and for export, including:

a. Between on or about August 16, 2013, and on or about April 18, 2014, Defendant SCHNABEL sold and caused GRC to sell approximately 102 truckloads of Gen2 to Ohio Blender in Hamilton County, Ohio. Defendant SCHNABEL arranged for the truckloads of Gen2 to be shipped to Ohio Blender's facility in Hamilton County, Ohio. Each act constituted a separate overt act in furtherance of the conspiracy.

Overt Act 6 Defendant SCHNABEL fraudulently sold and caused GRC to fraudulently sell the RINs to Credit Buyer. Each sale constituted a separate overt act in furtherance of the conspiracy.

Overt Act 7 On or about May 23, 2013, Triton sent a Form 8849 to the IRS, requesting AF Credits totaling \$2,470,001.00, representing 4,940,002 gallons of fuel sold to GRC between January 1, 2012, and September 30, 2012.

Overt Act 8 On or about July 9, 2013, Defendant SCHNABEL caused GRC to send an invoice via email to Gary Jury (Invoice # FEEDTR70913) for \$408,108.00. The invoice falsely requested "Payment for exceeding feedstock requirements for 18 month period ending June 30, 2013."

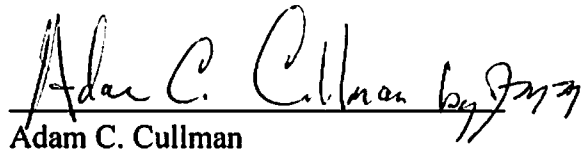
Overt Act 9 On or about July 10, 2013, Defendant SCHNABEL caused GRC to send Triton an invoice via email (Invoice # FEEDTR71014) for \$437,392.00, with Defendant SCHNABEL copied. The invoice was from Gristle, and falsely requested

“Payment for exceeding feedstock requirements for 18 month period ending June 30, 2013.”

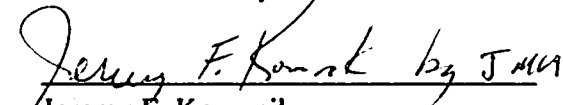
Overt Act 10 On or about July 10, 2013, Defendant SCHNABEL caused GRC to send Triton an invoice via email (Invoice # FEEDTR71115) for \$397,500.50. The invoice was from Gristle, and falsely requested “Payment for exceeding feedstock requirements for 18 month period ending June 30, 2013.”

All of which is a violation of 18, United States Code, Section 371.

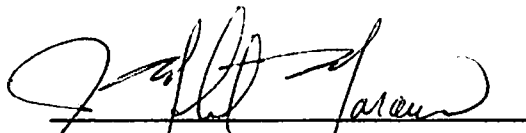
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