

Question

If a defendant in Oklahoma conspires with someone's wife in Texas to defraud the husband of his property interests by filing documents with false statements with the intention of presenting them to the Texas courts and they contain material false statements, and this plan works, does this open up a RICO claim if they also transferred money across state lines and emptied the joint marital bank account under a deceptive promise of wanting to help if their actions include transferring money across state lines, and then preparing a false affidavit of inability to pay in Oklahoma to be presented to Texas courts as well as an original divorce petition claiming an active protective order exists against the husband which is not true, and then the husband was removed from his home which is also his place of business?

Answer (U.S. Federal)

Short response

The described actions potentially support a civil RICO claim as they appear to constitute a pattern of racketeering activity connected to an enterprise with multiple predicate acts including fraud, false statements, and interstate money transfers that affected interstate commerce and directly injured the husband's business and property interests. To succeed, the husband would need to show that the defendants engaged in at least two qualifying predicate acts that were related and continuous, forming a pattern of racketeering activity that directly caused his injuries.

Summary

The scenario described involves potential racketeering activity that may support a civil RICO claim under [18 U.S.C. § 1962](#). The actions described—conspiring across state lines, filing false documents with courts, making material false statements, transferring money across state lines, emptying a joint bank account under false pretenses, preparing a false affidavit, and filing a divorce petition with false claims about a protective order—potentially constitute multiple predicate acts required for a pattern of racketeering activity under RICO. The interstate nature of these activities, involving actions in both Oklahoma and Texas, satisfies RICO's requirement for a nexus to interstate commerce.

For a successful RICO claim, the husband would need to demonstrate: (1) a person or persons who engaged in (2) a pattern of racketeering activity (3) connected to an enterprise, which resulted in (4) injury to his business or property. The pattern requirement would be satisfied by showing at least two predicate acts of racketeering within ten years that are related and demonstrate continuity. Given that the actions resulted in the husband being removed from his home, which was also his place of business, and the

fraudulent transfer of property and financial assets, he appears to have suffered a direct injury to his business and property interests that could support standing for a civil RICO claim.

Background and Relevant Law

Statutory Framework

The Racketeer Influenced and Corrupt Organizations Act (RICO) was enacted as Title IX of the Organized Crime Control Act of 1970. The relevant statutory provisions for a civil RICO claim are found in 18 U.S.C. §§ 1961-1964.

Prohibited Activities - [18 U.S.C. § 1962](#)

Under [18 U.S.C. § 1962](#), four types of activities are prohibited:

"It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce."

Additionally, subsection (d) states: "It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section."

This provision makes it unlawful to engage in or conspire to engage in a pattern of racketeering activity that affects interstate commerce, which is directly relevant to the scenario described. The conspiracy between the defendant in Oklahoma and someone's wife in Texas to defraud the husband potentially violates § 1962(c) and (d).

Definition of "Racketeering Activity" - [18 U.S.C. § 1961](#)

[18 U.S.C. § 1961](#) defines "racketeering activity" to include:

"(B) any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), ... section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)..."

Furthermore, a "'pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity."

The definition encompasses acts such as mail fraud, wire fraud, and fraudulent monetary transactions, which may encompass the described activities of filing false documents, transferring money across state lines, and emptying a joint marital bank account under deceptive pretenses.

Civil Remedies - [18 U.S.C. § 1964](#)

[18 U.S.C. § 1964](#) provides civil remedies for RICO violations:

"Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee..."

This section establishes the right of the husband to bring a civil RICO claim if he can demonstrate injury to his business or property as a result of the defendants' racketeering activities.

Wire Fraud - [18 U.S.C. § 1343](#)

[18 U.S.C. § 1343](#), which may serve as a predicate act for a RICO claim, states:

"Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both."

If the defendants used interstate wire communications in their scheme to defraud the husband, this could constitute wire fraud and serve as a predicate act for a RICO claim.

Interstate Travel in Aid of Racketeering - [18 U.S.C. § 1952](#)

[18 U.S.C. § 1952](#) potentially applies to the scenario:

"Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to- distribute the proceeds of any unlawful activity; or commit any crime of violence to further any unlawful activity; or otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity..."

The transfer of money across state lines to further the fraudulent scheme could potentially violate this provision and serve as a predicate act for a RICO claim.

Case Law Interpreting RICO Elements

Elements of a Civil RICO Claim

In [Bustos v. Invierte En Tex., 4:22-CV-02690 \(S.D. Tex. Jun 03, 2024\)](#), the court summarized the essential elements of a civil RICO claim:

"To state a civil RICO claim under [18 U.S.C. § 1962](#), a plaintiff must allege three common elements: '(1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise.'"

Similarly, [Cedra Pharmacy Houston, LLC v. UnitedHealth Grp., Inc., CIVIL ACTION NO. H-17-3800 \(S.D. Tex. Mar 07, 2019\)](#) explained:

"A plaintiff in a civil action may recover damages under the RICO statute, [18 U.S.C. § 1961](#), et seq., if he is able to allege and prove: 1) a violation of [18 U.S.C. § 1962\(a\), \(b\), \(c\), or \(d\)](#), and 2) injury to business or property as a result of such violation."

Pattern of Racketeering Activity

[Allstate Ins. Co. v. Donovan, CIVIL ACTION NO. H-12-0432 \(S.D. Tex. Jul 03, 2012\)](#) clarified:

"'A pattern of racketeering activity consists of two or more predicate criminal acts that are (1) related and (2) amount to or pose a threat of continued criminal activity.'"

The court further noted that "predicate acts can be either state or federal crimes."

[Heden v. Hill, 937 F.Supp. 1230 \(S.D. Tex. 1996\)](#) elaborated on the continuity requirement:

"The predicate acts must 'amount to or threaten continuing racketeering activity.'"

The secondary source [Civil Rico: A Tool of Advocacy](#) (2024-01-01) emphasized that:

"A violation of § 1962(c), the section on which Sedima relies, requires (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity. The plaintiff must allege each of the elements to state a claim. They are all equally essential components, and the complaint will fail if any one of them is not adequately pleaded."

Nexus to Interstate Commerce

[Trevino v. Pechero, 592 F.Supp.2d 939 \(S.D. Tex. 2008\)](#) highlighted:

"Because RICO is a federal statute, the racketeering must have at least a minimal nexus with interstate commerce."

Another source, RICO: A Primer (2022-01-31), explained:

"Notably, there must be some nexus to interstate or foreign commerce—it is a jurisdictional element of a civil RICO claim. Thus, predicate acts will often occur in several States."

Conspiracy Between Spouses

Federal criminal conspiracy (1998-03-22) addressed an important point relevant to this case:

"The legal fiction that a husband and wife are one person in the eyes of the law has been abandoned for the purposes of [sections] 371. Thus, a husband and wife are legally capable of conspiring with each other."

This principle applies to the scenario where someone's wife conspired with a defendant to defraud the husband.

Pleading Requirements for Fraud-Based RICO Claims

[Xenos Yuen v. Triple B Servs. LLP, CIVIL ACTION NO. H-18-3277 \(S.D. Tex. Jun 08, 2019\)](#) outlined heightened pleading standards:

"Predicate acts supporting a civil RICO claim, which are based on allegations of fraud, must meet the pleading requirements of FED. R. CIV. P. 9(b)... In the civil RICO context, Rule 9(b) also requires the plaintiff to allege specifically how each act of mail or wire fraud furthered the fraudulent scheme, who caused what to be mailed or wired when, and how the mailing or wiring furthered the fraudulent scheme."

Analysis

Application of RICO Elements to the Given Scenario

Person Engaging in Racketeering Activities

The first element requires identifying persons who engaged in the alleged racketeering activities. In this case, there are at least two persons: the defendant in Oklahoma and someone's wife in Texas. These individuals allegedly conspired to defraud the husband of his property interests through various fraudulent activities.

Pattern of Racketeering Activity

For a pattern of racketeering activity, the husband would need to identify at least two qualifying predicate acts that occurred within ten years of each

other. Based on the scenario described, several potential predicate acts can be identified:

1. Filing documents with false statements in Texas courts - This could constitute mail or wire fraud under 18 U.S.C. §§ 1341 or 1343 if the U.S. mail or interstate wire communications were used to file these documents.
2. Transferring money across state lines as part of the fraudulent scheme - This could potentially violate [18 U.S.C. § 1957](#) (engaging in monetary transactions in property derived from specified unlawful activity) if the money was derived from unlawful activity and exceeded \$10,000.
3. Emptying the joint marital bank account under deceptive pretenses - This could constitute wire fraud under [18 U.S.C. § 1343](#) if interstate wire communications were used in the process.
4. Preparing a false affidavit of inability to pay in Oklahoma to be presented to Texas courts - This could constitute mail or wire fraud if these interstate communications were used to submit the false affidavit.
5. Filing a divorce petition with false claims about an active protective order - This could constitute mail or wire fraud if interstate communications were used in the filing process.

As explained in [Allstate Ins. Co. v. Donovan, CIVIL ACTION NO. H-12-0432 \(S.D. Tex. Jul 03, 2012\)](#), these acts must be related and "amount to or pose a threat of continued criminal activity." The acts described appear related as they all form part of a coordinated scheme to defraud the husband of his property interests. They also demonstrate a level of continuity, as they involve multiple fraudulent activities carried out over time as part of an ongoing scheme.

The secondary source RICO: A Primer (2022-01-31) explains that continuity can be demonstrated by showing either:

- "Closed-ended continuity. Proving 'a series of related predicate acts extending over a substantial period of time.'"
- "Open-ended continuity. A threat of 'continuing criminal activity extending indefinitely into the future,' in light of the nature of the enterprise and predicate acts alleged."

The alleged scheme, involving multiple fraudulent acts over time, could potentially satisfy the closed-ended continuity requirement.

Connection to an Enterprise

The third element requires showing a connection to an enterprise. Under RICO, an "enterprise" is broadly defined and can include "an individual or legal entity, or a union or group of individuals associated in fact although not a legal entity." The association between the defendant and the wife, working together to defraud the husband, could potentially constitute an "association-in-fact" enterprise for RICO purposes. Their coordinated actions

across state lines suggest a structured relationship with the common purpose of defrauding the husband.

Nexus to Interstate Commerce

As highlighted in [Trevino v. Pechero, 592 F.Supp.2d 939 \(S.D. Tex. 2008\)](#), RICO requires "at least a minimal nexus with interstate commerce." This requirement appears to be satisfied in this case, as the activities involved:

1. Coordination between individuals in different states (Oklahoma and Texas)
2. Transferring money across state lines
3. Preparing documents in one state (Oklahoma) to be presented in another state's courts (Texas)

These interstate activities provide a clear nexus to interstate commerce, satisfying this jurisdictional requirement for a RICO claim.

Injury to Business or Property

For a civil RICO claim under [18 U.S.C. § 1964](#), the plaintiff must demonstrate injury to business or property resulting from the RICO violation. The scenario indicates that the husband was "removed from his home which is also his place of business." This suggests injury to both his property interests (loss of home) and business interests (loss of place of business). Additionally, the emptying of the joint marital bank account represents a direct financial injury.

As stated in [Civil Rico: A Tool of Advocacy](#) (2024-01-01):

"In the context of a civil action, a plaintiff must be directly injured by reason of the defendant's racketeering activities. Proximate cause, as an aspect of RICO's 'by reason of' standard, requires a RICO plaintiff to show that the defendant's racketeering offenses led directly to the plaintiff's injuries."

The husband's injuries—loss of property, place of business, and financial assets—appear to be direct consequences of the alleged racketeering activities, thus potentially satisfying this requirement.

Conspiracy Under RICO

The scenario explicitly mentions a conspiracy between the defendant and someone's wife. This could potentially support a claim under [18 U.S.C. § 1962\(d\)](#), which prohibits conspiring to violate other RICO provisions.

Importantly, Federal criminal conspiracy (1998-03-22) clarifies that "a husband and wife are legally capable of conspiring with each other." Although the scenario involves a third-party defendant conspiring with someone's wife (not a husband conspiring with his own wife), this principle confirms that there is no legal barrier to recognizing a conspiracy involving a spouse as a co-conspirator.

Federal criminal conspiracy (2007-03-22) further emphasizes that "conspiracy is entirely separate from completed substantive offense completed pursuant to the conspiracy, and its appropriately punished as a separate offense." This means that even if some aspects of the scheme were not fully realized, the conspiracy itself could constitute a RICO violation under § 1962(d).

Potential Challenges and Limitations

Pleading Requirements

As noted in [Xenos Yuen v. Triple B Servs. LLP, CIVIL ACTION NO. H-18-3277 \(S.D. Tex. Jun 08, 2019\)](#), RICO claims based on fraud are subject to heightened pleading requirements under Federal Rule of Civil Procedure 9(b). The husband would need to "allege specifically how each act of mail or wire fraud furthered the fraudulent scheme, who caused what to be mailed or wired when, and how the mailing or wiring furthered the fraudulent scheme." This requires detailed factual allegations that may be challenging to establish without substantial evidence of the defendants' communications and actions.

Proving an Enterprise

While the coordination between the defendant and the wife suggests an association-in-fact enterprise, the husband would need to demonstrate that this association had sufficient structure to qualify as an enterprise under RICO. This requires showing that the association had a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose.

Establishing Continuity

To establish a pattern of racketeering activity, the husband would need to show that the predicate acts were not isolated events but rather part of a pattern showing continuity. If the scheme was short-lived or consisted of a single fraudulent transaction with multiple parts, it might be more difficult to establish the necessary continuity.

RECONCEIVING COERCION-BASED CRIMINAL DEFENSES (2022-03-22) notes that continuity can refer to "either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition." If the fraudulent activities occurred over a limited period with no threat of continuing, this could potentially undermine the continuity requirement.

Proving Causation

For a civil RICO claim, the husband would need to establish that his injuries were caused "by reason of" the RICO violation. This requires showing both actual and proximate causation—that the defendants' racketeering activities

directly caused his injuries. If there are intervening causes or if some of the injuries cannot be directly linked to the alleged racketeering activities, this could limit the scope of recoverable damages.

Conclusion

Based on the statutory framework and case law interpretation of RICO requirements, the scenario described potentially supports a civil RICO claim. The actions of the defendant in Oklahoma and someone's wife in Texas appear to constitute multiple predicate acts that could establish a pattern of racketeering activity. Their coordinated efforts across state lines to defraud the husband of his property interests through false documents, interstate money transfers, and false court filings suggest a structured association-in-fact enterprise with a clear nexus to interstate commerce.

The husband's injuries—being removed from his home/place of business and losing financial assets from the joint marital account—represent direct harm to his business and property interests that could provide standing for a civil RICO claim under [18 U.S.C. § 1964](#).

However, the success of such a claim would depend on the specific details and evidence available to support each element of a RICO violation:

1. Proving that the defendants engaged in at least two qualifying predicate acts (e.g., mail fraud, wire fraud, or financial transactions in criminally derived property)
2. Demonstrating that these acts were related and continuous, forming a pattern of racketeering activity
3. Establishing that the defendants constituted or were associated with an enterprise
4. Showing a sufficient nexus to interstate commerce
5. Proving that the husband's injuries were directly caused by the defendants' racketeering activities

If these elements can be established with sufficient evidence, the husband would potentially have grounds for a civil RICO claim that could entitle him to treble damages, costs, and attorney's fees under [18 U.S.C. § 1964](#).

The interstate nature of the alleged activities—spanning Oklahoma and Texas—and the use of false documents in court proceedings, combined with interstate financial transactions, provide a strong foundation for such a claim. However, the husband would need to meet the heightened pleading requirements for fraud-based RICO claims and be prepared to address potential challenges to establishing continuity and enterprise elements.

Legal Authorities

[Heden v. Hill, 937 F.Supp. 1230 \(S.D. Tex. 1996\)](#)

U.S. District Court — Southern District of Texas

Extract

In 1970, Congress enacted RICO as Title IX of the Organized Crime Control Act to combat organized crime through both criminal prosecutions and private actions. See 18 U.S.C. § 1961 et seq. ... Under RICO, while four distinct offenses are declared to be unlawful, common elements are present in all four offenses. ... Under § 1961(1)(B), racketeering activity includes any act which is indictable under a number of federal criminal statutes, including mail fraud and wire fraud. ... For mail fraud, it is necessary to show that (1) the defendants formed a scheme or artifice to defraud; (2) the defendants used the United States mails or caused a use of the United States mails in furtherance of the scheme; and (3) the defendants did so with the specific intent to deceive or defraud. ... A RICO claim asserting mail fraud as a predicate act must allege how each specific act of mail fraud actually furthered the fraudulent scheme, who caused what to be mailed when, and how the mailing furthered the fraudulent scheme. ... A 'pattern of racketeering activity' requires at least two acts of racketeering activity within a ten-year period. ... The predicate acts must 'amount to or threaten continuing racketeering activity.'

Summary

Elements necessary to prove mail fraud, which could be relevant if the fraudulent scheme involved the use of mail or wire communications. Additionally, the passage emphasizes the need for continuity in the racketeering activity, either through repeated conduct or conduct that poses a future threat of repetition.

[Trevino v. Pechero, 592 F.Supp.2d 939 \(S.D. Tex. 2008\)](#)

U.S. District Court — Southern District of Texas

Extract

RICO requires a showing that (1) a person that engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise. *Crowe v. Henry*, 43 F.3d 198, 204 (5th Cir.1995) (quoting *Delta Truck & Tractor, Inc. v. J.I. Case Co.*, 855 F.2d 241 (5th Cir.1988)) (emphasis in original). Because RICO is a federal statute, the racketeering must have at least a minimal nexus with interstate commerce. *R.A.G.S. Couture, Inc. v. Hyatt*, 774 F.2d 1350, 1353 (5th Cir.1985).

Summary

Framework for evaluating whether the described actions could constitute a RICO claim.

[Xenos Yuen v. Triple B Servs. LLP, CIVIL ACTION NO. H-18-3277 \(S.D. Tex. Jun 08, 2019\)](#)

U.S. District Court — Southern District of Texas

Extract

All civil RICO claims require allegations and proof of '1) a person who engages in 2) a pattern of racketeering activity 3) [which is] connected to the acquisition, establishment, conduct or control of an enterprise.' ... Predicate acts supporting a civil RICO claim, which are based on allegations of fraud, must meet the pleading requirements of FED. R. CIV. P. 9(b). ... In the civil RICO context, Rule 9(b) also requires the plaintiff to allege specifically how each act of mail or wire fraud furthered the fraudulent scheme, who caused what to be mailed or wired when, and how the mailing or wiring furthered the fraudulent scheme.

Summary

For a civil RICO claim to be plausible, there must be allegations and proof of a person engaging in a pattern of racketeering activity connected to an enterprise. Additionally, if the predicate acts are based on fraud, they must meet the heightened pleading requirements of Rule 9(b), which includes specifying how each act of mail or wire fraud furthered the fraudulent scheme, identifying the parties involved, and detailing the time, place, and content of the communications.

[Cedra Pharmacy Houston, LLC v. UnitedHealth Grp., Inc., CIVIL ACTION NO. H-17-3800 \(S.D. Tex. Mar 07, 2019\)](#)

U.S. District Court — Southern District of Texas

Extract

A plaintiff in a civil action may recover damages under the RICO statute, 18 U.S.C. § 1961, et seq., if he is able to allege and prove: 1) a violation of 18 U.S.C. § 1962(a), (b), (c), or (d), and 2) injury to business or property as a result of such violation. 18 U.S.C. § 1964(c) ('Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court. ... ').

Section 1962, as interpreted by the Fifth Circuit Court of Appeals, provides in its simplest terms, that: Crowe v. Henry, 43 F.3d 198, 203 (5th Cir. 1995). All civil RICO claims require allegations and proof of '1) a person who engages in 2) a pattern of racketeering activity 3) [which is] connected to the acquisition, establishment, conduct or control of an enterprise.' Id. at 204 (emphasis in original). ... A 'pattern of racketeering' within the meaning of § 1962 'requires at least two acts of racketeering activity.' 18 U.S.C. § 1961(5). In this circuit, 'a pattern of racketeering activity' has two elements: '1) predicate acts--the requisite racketeering activity, and 2) a pattern of such acts.' In re Burzynski, 989 F.2d 733, 742 (5th Cir. 1993). Predicate acts

are delineated in 18 U.S.C. § 1961(1), and include, for purposes of this case, extortion. To set out a pattern of predicate acts, a plaintiff must demonstrate that the predicate acts are related and that such acts have some type of continuity. Id.

Summary

A pattern of racketeering requires at least two acts of racketeering activity, which can include extortion. The plaintiff must also show that these acts are related and continuous. In the scenario described in the question, if the actions of the defendant and the wife meet these criteria, such as through acts of fraud and extortion, and if these actions resulted in injury to the husband's business or property, it could potentially open up a RICO claim.

[Allstate Ins. Co. v. Donovan, CIVIL ACTION NO. H-12-0432 \(S.D. Tex. Jul 03, 2012\)](#)

U.S. District Court — Southern District of Texas

Extract

RICO provides civil causes of action for recovery of treble damages for '[a]ny person injured in his business or property by reason of a violation of section 1962 of this chapter.' 18 U.S.C. § 1964 (c). Plaintiffs have alleged that defendants have violated §§ 1962(c) and (d). These subsections state: 18 U.S.C. §§ 1962(c) and (d). The Fifth Circuit has interpreted these subsections to mean that 'a person who is employed by or associated with an enterprise cannot conduct the affairs of the enterprise through a pattern of racketeering activity[, and that] a person cannot conspire to violate subsection[...]. .. (c).' ... 'A pattern of racketeering activity consists of two or more predicate criminal acts that are (1) related and (2) amount to or pose a threat of continued criminal activity.' St. Germain, 556 F.3d at 263. See also 18 U.S.C. § 1961(5) ('pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years. ... after the commission of a prior act of racketeering activity'). Predicate acts can be either state or federal crimes. Id.

Summary

For a RICO claim to be valid, there must be a pattern of racketeering activity, which consists of at least two predicate criminal acts that are related and pose a threat of continued criminal activity. These predicate acts can be state or federal crimes. The passage also clarifies that a person cannot conduct the affairs of an enterprise through a pattern of racketeering activity or conspire to do so. The passage provides insight into the requirements for establishing a RICO claim, which is relevant to the question of whether the described actions could constitute a RICO violation.

U.S. District Court — Southern District of Texas

Extract

To state a civil RICO claim under 18 U.S.C. § 1962, a plaintiff must allege three common elements: “(1) a person who engages in (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment, conduct, or control of an enterprise.” N. Cypress Med. Ctr. Operating Co., Ltd. v. Cigna Healthcare, 781 F.3d 182, 201 (5th Cir. 2015) (quotation omitted). [] An act of “racketeering activity,” commonly referred to as a “predicate act,” is defined to include certain criminal acts, including mail and wire fraud, and any act indictable under the Immigration and Nationality Act.

Summary

Framework for understanding how these actions could be part of a RICO claim.

[18 U.S.C. § 1343 18 U.S.C. § 1343 Fraud By Wire, Radio, Or Television](#)

Extract

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both.

Summary

18 U.S.C. § 1343 addresses schemes to defraud using interstate wire communications. The scenario described in the question involves transmitting false documents and transferring money across state lines, which could potentially fall under this statute if wire communications were used in the process. This statute is relevant to the question as it provides a basis for federal charges related to wire fraud, which is often a predicate offense for a RICO claim.

[18 U.S.C. § 1962 18 U.S.C. § 1962 Prohibited Activities](#)

Extract

It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. ... It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

Summary

18 U.S.C. § 1962 makes it unlawful for any person to engage in a pattern of racketeering activity or to conspire to do so, especially when such activities affect interstate commerce. The scenario described involves potential racketeering activities, such as fraud and conspiracy, which are intended to defraud a person of property interests and involve interstate elements (e.g., transferring money across state lines). These actions could potentially fall under the purview of RICO if they constitute a pattern of racketeering activity.

[18 U.S.C. § 1961](#) [18 U.S.C. § 1961 Definitions](#)

Extract

As used in this chapter- 'racketeering activity' means ... (B) any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), ... section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), ... 'pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

Summary

The definition of "racketeering activity" includes acts indictable under sections related to fraud (mail, wire, financial institution) and money laundering. The passage also defines a "pattern of racketeering activity" as requiring at least two acts of racketeering activity within a specified timeframe. This is relevant to the question as the described actions could potentially fall under these definitions if they involve fraud and monetary transactions across state lines.

[18 U.S.C. § 1964](#) [18 U.S.C. § 1964 Civil Remedies](#)

Extract

Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee...

Summary

The passage from 18 U.S.C. § 1964 outlines the civil remedies available for violations of section 1962, which deals with racketeering activities. It states that any person injured in their business or property due to such a violation can sue in a U.S. district court and recover threefold the damages sustained, along with the cost of the suit and reasonable attorney's fees. This is relevant to the question as it suggests that if the actions described (conspiracy, fraud, and interstate money transfer) constitute a pattern of racketeering activity under section 1962, the injured party (the husband) may have grounds for a RICO claim.

[18 U.S.C. § 1952](#) [18 U.S.C. § 1952 Interstate and Foreign Travel Or Transportation In Aid of Racketeering Enterprises](#)

Extract

Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to- distribute the proceeds of any unlawful activity; or commit any crime of violence to further any unlawful activity; or otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity, and thereafter performs or attempts to perform- (A) an act described in paragraph or shall be fined under this title, imprisoned not more than 5 years, or both; or (B) an act described in paragraph shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.

Summary

Using interstate commerce to distribute proceeds of unlawful activity or to promote or manage unlawful activity can lead to fines and imprisonment. This is relevant to the scenario described in the question, where the defendants used interstate commerce (transferring money across state lines) to facilitate fraudulent activities.

[18 U.S.C. § 1963](#) [18 U.S.C. § 1963 Criminal Penalties](#)

Extract

Whoever violates any provision of section 1962 of this chapter shall be fined under this title or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both, and shall forfeit to the United States, irrespective of any provision of State law- any interest the person has acquired or maintained in violation of section 1962; any-(A) interest in; (B) security of; (C) claim against; or (D) property or contractual right of any kind affording a source of influence over; any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962; and any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962.

Summary

Penalties for violating section 1962, which involves racketeering activities. It specifies that individuals involved in such activities can face significant fines, imprisonment, and forfeiture of any interests or property obtained through the racketeering activity. The context of the question involves a scheme to defraud, which could potentially fall under racketeering if it involves a pattern of illegal activity as defined under section 1962. The passage is relevant as it provides the legal framework for penalties and forfeiture related to racketeering activities, which could apply to the described scenario if it meets the criteria of a RICO violation.

[18 U.S.C. § 1957](#) [18 U.S.C. § 1957 Engaging In Monetary Transactions In Property Derived From Specified Unlawful Activity](#)

Extract

Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than \$10,000 and is derived from specified unlawful activity, shall be punished as provided in subsection (b).

Summary

The passage from 18 U.S.C. § 1957 addresses the criminal liability for engaging in monetary transactions involving property derived from specified unlawful activities. The statute specifies that knowingly engaging in such transactions, particularly when the value exceeds \$10,000, is punishable under federal law. This is relevant to the question as it involves the transfer of money across state lines, which could be considered a monetary transaction in criminally derived property if the funds were obtained through fraudulent means. The statute does not require the government to prove that the defendant knew the property was derived from specified

unlawful activity, which could simplify prosecution under this statute. However, the passage does not directly address the broader RICO claim, which involves a pattern of racketeering activity.

[Federal criminal conspiracy.](#)

American Criminal Law Review - Georgetown University Law Center - Russell, Todd R. - 1998-03-22

Extract

The legal fiction that a husband and wife are one person in the eyes of the law has been abandoned for the purposes of [sections] 371. Thus, a husband and wife are legally capable of conspiring with each other. See e.g., United States v. Dege, 364 U.S. 51, 54-55 (1960).

Summary

Under U.S. federal law, specifically section 371, a husband and wife can legally conspire with each other. This is relevant to the question as it involves a conspiracy between a defendant and someone's wife. The passage supports the notion that such a conspiracy is legally recognized, which is a critical element in considering a RICO claim.

[Federal criminal conspiracy.](#)

American Criminal Law Review - Georgetown University Law Center - Diener, Kathy - 2005-03-22

Extract

charge of falsifying documents at a subsequent trial). (5.) See United States v. Tucker, 376 F.3d 236, 239 (4th Cir. 2004) (holding that it is irrelevant that defendant could not have been convicted of underlying charge, since proof of a conspiracy does not require proof that the object of the conspiracy was achieved or could have been achieved, only that the parties agreed to achieve it); United States v. Campbell, 64 F.3d 967, 975-76 (5th Cir. 1995) (finding defendant's acquittal for involvement in co-conspirator's fraudulent pledge to a bank does not bar conviction for conspiracy to commit bank fraud); United States v. Hughes Aircraft Co., 20 F.3d 974, 978-79 (9th Cir. 1994) (affirming conviction of conspiracy to make false statements despite acquittal of two counts of making false statements); ... required by statute); United States v. Pullman, 187 F.3d 816, 820 (8th Cir. 1999) (stating conspiracy is agreement to commit unlawful act and this agreement is essential evil at which the crime of conspiracy is directed); United States v. Toler, 144 F.3d 1423, 1425 (11th Cir. 1998) (stating agreement remains essential element of crime of conspiracy). (20.) E.g., United States v. Fenton, 367 F.3d 14, 19 (1st Cir. 2004) (holding that conspiracy is an agreement

between two or more persons, including defendant, to commit a particular crime). The legal fiction that a husband and wife are one person in the eyes of the law has been abandoned for purposes of [section] 371; thus, a husband and wife are legally capable of conspiring with each other.

Summary

Nature of conspiracy under federal law, emphasizing that a conspiracy charge does not require the successful completion of the unlawful act, only an agreement to commit it. It also clarifies that a husband and wife can legally conspire together, which is relevant to the scenario described in the question.

[Federal criminal conspiracy.](#)

American Criminal Law Review - Georgetown University Law Center - Davis, Christian - 2007-03-22

Extract

conspiracy is entirely separate from completed substantive offense completed pursuant to the conspiracy, and its appropriately punished as a separate offense." (quoting United States v. Inakufu, 938 F.2d 972, 973-74 (9th Cir. 1991)). ... an agreement, rather than a group"); United States v. Chandler, 388 F.3d 796, 805-06 (11th Cir. 2004) (stating conspiracy is agreement to commit unlawful act and this agreement is the essential evil at which the crime of conspiracy is directed). ... The legal fiction that a husband and wife are one person in the eyes of the law has been abandoned for purposes of [section] 371; thus, a husband and wife are legally capable of conspiring with each other. See United States v. Dege, 364 U.S. 51, 54-55 (1960) (holding changes in status of women mandates they

Summary

Conspiracy is a separate offense from the substantive crime that results from it. It emphasizes that conspiracy involves an agreement to commit an unlawful act, which is the core of the crime. Additionally, it notes that a husband and wife can legally conspire with each other, which is relevant to the scenario described in the question. This information is crucial in understanding the potential for a RICO claim, as RICO often involves proving a pattern of racketeering activity, which can include conspiracy.

[Civil Rico: A Tool of Advocacy](#)

The Brief - American Bar Association - 2024-01-01

Extract

A violation of § 1962(c), the section on which Sedima relies, requires (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity. The plaintiff must allege each of the elements to state a claim. They are all equally essential components, and the complaint will fail if any one of them is not adequately pleaded. In particular, RICO claims based on mail or wire fraud must comport with Federal Rule of Civil Procedure 9(b)'s requirement that allegations involving fraud be pleaded with particularity... Section 1961(1) outlines the definition of "racketeering activity" and enumerates various predicate acts that can establish a pattern of racketeering. These predicate acts encompass a wide range of criminal activities, including but not limited to mail fraud, wire fraud, bribery, extortion, and money laundering... RICO's prohibitions may be enforced in both criminal and civil contexts. In the context of a civil action, a plaintiff must be directly injured by reason of the defendant's racketeering activities. Proximate cause, as an aspect of RICO's "by reason of" standard, requires a RICO plaintiff to show that the defendant's racketeering offenses led directly to the plaintiff's injuries.

Summary

Framework for understanding the elements required to plead a RICO claim, emphasizing the need for particularity in allegations of fraud and the necessity of demonstrating proximate cause.

[CRIMINAL LAW - NINTH CIRCUIT HOLDING HIGHLIGHTS CUMBERSOME APPLICATION OF PRESUMPTION AGAINST EXTRATERRITORIALITY IN FEDERAL STATUTES WITH STATE PREDICATES - UNITED STATES V. PEREZ.](#)

Suffolk Transnational Law Review - Suffolk University Law School - Callahan, Kathleen - 2021-01-01

Extract

The Court formalized a two-step framework for analyzing the extraterritorial application of a statute (1) the presumption against extraterritoriality can only be rebutted if the statute provides a clear indication that Congress intended it to apply abroad, and (2) if there is no indication of extraterritoriality, the conduct in the case must evidence a domestic application of the statute. Regarding RICO specifically, the Court held that the racketeering statute may have extraterritorial effect, 'but only to the extent that the predicates alleged in a particular case themselves apply extraterritoriality.'

Summary

RICO can have extraterritorial effect if the predicates alleged in a particular case themselves apply extraterritorially. This suggests that if the actions in question involve predicates that have extraterritorial application, a RICO claim could potentially be made.

[RECONCEIVING COERCION-BASED CRIMINAL DEFENSES.](#)

Journal of Criminal Law and Criminology - Northwestern University, School of Law - Galoob, Stephen R. - 2022-03-22

Extract

The inquiry here is meant to invoke the 'pattern of racketeering activity' element of the Racketeer Influenced and Corrupt Organizations Act (RICO). The Organized Crime Control Act (1970), which includes RICO, provides that 'criminal conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.' The Supreme Court characterized this requirement as a 'relationship' element and held that the statute further requires a 'continuity' element, 'referring either to a closed period of repeated conduct, or to past conduct that by its nature projects into the future with a threat of repetition.'

Summary

The passage explains the requirements for establishing a "pattern of racketeering activity" under RICO. It highlights that criminal conduct must form a pattern if it involves acts with similar purposes, results, participants, victims, or methods of commission, or if they are interrelated by distinguishing characteristics and are not isolated events. Additionally, the Supreme Court requires a "continuity" element, which refers to either a closed period of repeated conduct or past conduct that projects into the future with a threat of repetition. This information is relevant to determining whether the actions described in the question could constitute a RICO claim.

[Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#)

Extract

RICO is not a simple statute. It pertains to conduct associated with an 'enterprise' and 'a pattern racketeering activity.' An enterprise is an individual or legal entity, or a union or group of individuals associated in fact although not a legal entity, while a pattern of racketeering activity requires long-term, organized conduct to violate state and federal laws. ... Second, to

prove most types of RICO claims, the plaintiff must plead that the defendant committed some qualifying criminal action, the most common of which is mail, wire or securities fraud. ... Third, the plaintiff must plead a pattern of racketeering activity for most RICO claims. If the alleged conduct occurred once or twice, or was not continuous, it cannot form a pattern of conduct sufficient to support a RICO claim. ... Fifth, a RICO claim cannot exist without some nexus to interstate commerce. If the alleged conduct does not affect interstate commerce, it must be dismissed.

Summary

Requirements for a RICO claim, including the need for an "enterprise" and a "pattern of racketeering activity," which involves long-term, organized conduct that violates state and federal laws. It also highlights the necessity of proving a qualifying criminal action, such as mail or wire fraud, and the requirement for a pattern of racketeering activity, which must be continuous and not isolated. Additionally, there must be a nexus to interstate commerce for a RICO claim to be valid.

[Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#)

Extract

RICO is not a simple statute. It pertains to conduct associated with an 'enterprise' and 'a pattern racketeering activity.' An enterprise is an individual or legal entity, or a union or group of individuals associated in fact although not a legal entity, while a pattern of racketeering activity requires long-term, organized conduct to violate state and federal laws. There are four types of activities outlawed by RICO, and claims under Section 1962(c) are the most commonly asserted: * Section 1962(a) prohibits a person from investing in an enterprise any income derived from a pattern of racketeering activity; * Section 1962(b) prohibits a person from using a pattern of racketeering activity to acquire or maintain control over an enterprise; * Section 1962(c) prohibits a person from conducting the affairs of an enterprise through a pattern of racketeering; and * Section 1962(d) prohibits a person from conspiring to violate Sections 1962(a), (b), or (c).

Summary

Types of activities prohibited under RICO, including conducting the affairs of an enterprise through a pattern of racketeering and conspiring to violate these provisions. The scenario described in the question involves potential fraudulent activities and interstate transactions, which could potentially meet the criteria for a RICO claim if they constitute a pattern of racketeering activity and involve an enterprise as defined by the statute.

[RICO: A Primer](#)

Extract

RICO provides for a civil action against persons engaged in a 'pattern of racketeering activity' or 'collection of an unlawful debt.' A successful plaintiff may recover treble damages, costs, and attorneys' fees. ... Notably, there must be some nexus to interstate or foreign commerce-it is a jurisdictional element of a civil RICO claim. Thus, predicate acts will often occur in several States. ... A 'pattern' may exist where any combination of two or more offenses occurred within a period of time. ... There are four separate and distinct RICO violations set out in section 1962: (a) acquiring or operating an enterprise using racketeering proceeds; (b) controlling an enterprise using racketeering activities; (c) conducting the affairs of an enterprise using racketeering activities; and (d) conspiring to so acquire, control, or conduct.

Summary

The Racketeer Influenced and Corrupt Organizations Act (RICO) allows for civil action against individuals engaged in a pattern of racketeering activity. The passage outlines that a pattern of racketeering activity can be established with two or more offenses occurring over a period of time, and there must be a nexus to interstate commerce. The described scenario involves multiple fraudulent acts, including filing false documents and transferring money across state lines, which could potentially constitute a pattern of racketeering activity. Additionally, the passage mentions that RICO violations include conspiring to conduct an enterprise through racketeering activities, which aligns with the described conspiracy to defraud the husband.

[RICO: A Primer](#)

Extract

RICO provides for a civil action against persons engaged in a 'pattern of racketeering activity' or 'collection of an unlawful debt.' A successful plaintiff may recover treble damages, costs, and attorneys' fees. ... Notably, there must be some nexus to interstate or foreign commerce-it is a jurisdictional element of a civil RICO claim. Thus, predicate acts will often occur in several States. ... A plaintiff is required to demonstrate that the defendant conducted the affairs of an enterprise through a pattern of racketeering activity. ... A 'pattern' may exist where any combination of two or more offenses occurred within a period of time. ... A plaintiff may demonstrate a pattern by establishment that the predicate acts pose a threat of continued criminal activity, which is generally demonstrated by showing either: * Closed-ended continuity. Proving 'a series of related predicate acts extending over a substantial period of time.' * Open-ended continuity. A threat of 'continuing criminal activity extending indefinitely into the future,' in light of the nature of the enterprise and predicate acts alleged.

Summary

The Racketeer Influenced and Corrupt Organizations Act (RICO) allows for civil action against individuals engaged in a pattern of racketeering activity. The passage outlines that a pattern of racketeering activity can be established by demonstrating a series of related predicate acts that either extend over a substantial period of time (closed-ended continuity) or pose a threat of continuing indefinitely into the future (open-ended continuity). Additionally, there must be a nexus to interstate or foreign commerce, which is relevant in this case as the actions involved transferring money across state lines. The passage also notes that predicate acts often occur in several states, which aligns with the scenario described in the question involving actions in both Oklahoma and Texas.

This memo was compiled by Vincent AI based on vLex materials available as of June 06, 2025. [View full answer on vLex](#)