

# **Question**

What constitutes an enterprise under RICO in the 10th Circuit?

# **Answer (Tenth Circuit)**

## **Short response**

In the 10th Circuit, a RICO enterprise encompasses "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." An association-in-fact enterprise requires three structural features: a purpose, relationships among associates, and sufficient longevity to pursue the enterprise's purpose.

## **Summary**

Under the Racketeer Influenced and Corrupt Organizations Act (RICO), an enterprise in the 10th Circuit follows the statutory definition provided in 18 U.S.C. § 1961(4), which includes formal legal entities as well as informal associations-in-fact. The 10th Circuit, following Supreme Court guidance in *Boyle v. United States*, 556 U.S. 938 (2009), requires that even informal associations-in-fact must demonstrate three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit the associates to pursue the enterprise's purpose. Importantly, while these structural features are necessary, the 10th Circuit does not require a formal hierarchy, chain of command, or other rigid organizational elements.

The 10th Circuit has established several key requirements for RICO enterprises that distinguish them from mere patterns of racketeering activity. These include the distinctness requirement (the RICO "person" must be separate from the enterprise), the continuity requirement (associates must function as a continuing unit), and the requirement that the enterprise must exist separate from the pattern of racketeering activity. While the 10th Circuit previously adhered to a more structured approach requiring "a decision-making framework or mechanism for controlling the group" in [United States v. Smith, 413 F.3d 1253 \(10th Cir. 2005\)](#), this rigid requirement was later overruled, bringing the 10th Circuit's interpretation in line with the Supreme Court's more flexible approach in Boyle.

## **Background and Legal Framework**

### **Statutory Definition and RICO Elements**

The foundation for understanding what constitutes an enterprise under RICO begins with the statutory definition. Under 18 U.S.C. § 1961(4), an

enterprise "includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." This definition is consistently cited in 10th Circuit cases, establishing the broad range of entities that can qualify as RICO enterprises.

Multiple 10th Circuit cases emphasize that a RICO claim requires proof of four elements: "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." [Robbins v. Wilkie, 300 F.3d 1208, 1210 \(10th Cir. 2002\)](#) ("To successfully state a RICO claim, a plaintiff must allege four elements: '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.'"). This formulation comes from the Supreme Court's decision in *Sedima, S.P.R.L. v. Imrex Co., Inc.*, 473 U.S. 479, 496 (1985) and is consistently applied throughout 10th Circuit jurisprudence, as seen in [Bixler v. Foster, 596 F.3d 751, 761 \(10th Cir. 2010\)](#) and [Safe Streets Alliance v. Hickenlooper, 859 F.3d 865 \(10th Cir. 2017\)](#).

The statutory basis for RICO liability is found in 18 U.S.C. § 1962(c), which states: "It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity." [United States v. Garcia, 793 F.3d 1194, 1200 \(10th Cir. 2015\)](#) ("Section 1962(c) states: It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.").

## **Supreme Court Guidance: A Broad Interpretation**

The 10th Circuit's understanding of what constitutes a RICO enterprise has been significantly shaped by Supreme Court decisions, particularly *United States v. Turkette*, 452 U.S. 576 (1981) and *Boyle v. United States*, 556 U.S. 938 (2009).

In *Turkette*, the Supreme Court established that a RICO enterprise "is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit." [U.S. v. Smith, 413 F.3d 1253, 1266-67 \(10th Cir. 2005\)](#) ("In *United States v. Turkette*, 452 U.S. 576, 583, 101 S.Ct. 2524, 69 L.Ed.2d 246 (1981), the Supreme Court held that a RICO enterprise 'is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.'"). The Court also emphasized that the concepts of an enterprise and a pattern of racketeering activity are distinct elements, stating that "[w]hile the proof used to establish these separate elements may in particular cases coalesce, proof of one does not necessarily establish the other." Id.

*Boyle* further clarified the requirements for an association-in-fact enterprise, stating that such an enterprise must have: "(1) a purpose, (2) relationships among those associated with the enterprise, and (3) longevity sufficient to

permit these associates to pursue the enterprise's purpose." [United States v. Kamahele, 748 F.3d 984, 1003 \(10th Cir. 2014\)](#) ("An association-in-fact requires: (1) a purpose, (2) relationships among those associated with the enterprise, and (3) longevity sufficient to permit those associated with the enterprise to pursue the enterprise's purpose."). Significantly, Boyle rejected the notion that a RICO enterprise requires a formal hierarchy, chain of command, fixed roles, a name, established rules, initiation ceremonies, or regular meetings. [Id. at 1003](#) ("An enterprise may exist even without a formal hierarchy, chain of command, fixed roles, a name, established rules, initiation ceremonies, or regular meetings.").

## **Key Elements of a RICO Enterprise in the 10th Circuit**

### **Three Structural Features Required**

Following the Supreme Court's guidance in Boyle, the 10th Circuit has consistently held that an association-in-fact enterprise must possess three structural features:

1. A purpose
2. Relationships among those associated with the enterprise
3. Longevity sufficient to permit these associates to pursue the enterprise's purpose

This three-part test is cited in numerous 10th Circuit cases. For example, in [Dugan v. State Farm Mut. Ins. Co.](#), Case No. CIV-17-1221-R (W.D. Okla. Apr. 03, 2018), the court stated: "This 'must have at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose.'" Similarly, [Sullivan v. HCA Healthcare, Inc., Case No. 19-2034-JAR-TJJ \(D. Kan. Aug 26, 2019\)](#) quotes Boyle: "From the terms of RICO, it is apparent that an association-in-fact enterprise must have at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose."

The 10th Circuit has further described these requirements by noting that an association-in-fact enterprise constitutes a "group of persons associated together for a common purpose of engaging in a course of conduct." [United States v. Kamahele, 748 F.3d 984, 1003 \(10th Cir. 2014\)](#) ("To qualify as an enterprise under RICO, the association need only be a 'continuing unit that functions with a common purpose.'").

### **Evolution of the "Structure" Requirement**

The 10th Circuit's approach to the structure requirement for RICO enterprises has evolved over time. In [United States v. Smith, 413 F.3d 1253 \(10th Cir. 2005\)](#), the court required: "(1) the existence of a decision-making framework or mechanism for controlling the group, (2) that various associates functioned as a continuing unit, and (3) that the enterprise had

an existence separate and apart from the pattern of racketeering activity." [U.S. v. Hutchinson, 573 F.3d 1011 \(10th Cir. 2009\)](#) ("We held that, to distinguish the RICO enterprise element from the statute's pattern of racketeering activity, the government must prove: (1) the existence of a decision-making framework or mechanism for controlling the group, (2) that various associates functioned as a continuing unit, and (3) that the enterprise had an existence separate and apart from the pattern of racketeering activity.").

However, Smith's requirement for a "decision-making framework or mechanism" was effectively overruled following the Supreme Court's decision in Boyle, which rejected the need for a hierarchical structure. As noted in [United States v. Garcia, 793 F.3d 1194 \(10th Cir. 2015\)](#), Smith has been overruled in this respect. This shift brought the 10th Circuit's approach more in line with the Supreme Court's flexible interpretation in Boyle.

The current understanding in the 10th Circuit is reflected in [Lopez v. Marriott Int'l](#), Civil Action 23-cv-03308-RMR-KAS (D. Colo. Feb 27, 2025), which states: "In Boyle v. United States, the Supreme Court clarified that an association-in-fact enterprise must have three structural features: 'a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose.' 556 U.S. 938, 946 (2009). It need not have a hierarchical structure or chain of command."

## **Distinctness Requirement**

A crucial aspect of what constitutes an enterprise under RICO in the 10th Circuit is the distinctness requirement, which mandates that the RICO "person" (defendant) must be separate from the enterprise itself. This principle is well-established in 10th Circuit jurisprudence.

In [Sullivan v. Boettcher & Co., 714 F. Supp. 1132 \(D. Colo. 1989\)](#), the court noted: "All of the circuit courts of appeal (except the Eleventh Circuit) that have considered the issue agree that the RICO 'person' sued as defendant must be distinct from the RICO 'enterprise.'" The court dismissed the RICO claim in that case because "the plaintiffs have not alleged an enterprise separate and apart from the sued defendants." Id.

Similarly, [George v. Urban Settlement Servs., 833 F.3d 1242 \(10th Cir. 2016\)](#) concluded that the plaintiffs "plausibly allege the existence of an association-in-fact enterprise distinct from BOA" and therefore "the district court erred in concluding the plaintiffs failed to adequately plead the enterprise element of their RICO claim." This again emphasizes the necessity of distinctness between the RICO person and the enterprise.

## **Continuous Unit Requirement**

Another important aspect of a RICO enterprise in the 10th Circuit is the requirement that the associates function as a continuous unit. In [Carlson v. Town of Mountain Vill., Civil Action No. 17-cv-02887-PAB-STV](#) (D. Colo. Mar

[25, 2019](#)), the court stated that an enterprise's existence is proven "by evidence of an ongoing organization... and by evidence that the various associates function as a continuing unit." The court further noted that the enterprise must "function as a continuing unit with an existence beyond that necessary to commit the predicate acts and have an identity distinct from that of the individual [d]efendants."

This continuity requirement is also emphasized in [Ferluga v. Eickhoff, 408 F.Supp.2d 1153 \(D. Kan. 2006\)](#), which states that proving a RICO enterprise requires evidence "that the various associates function as a continuing unit."

## **Separate Existence from Racketeering Activity**

The 10th Circuit also requires that a RICO enterprise must exist separate and apart from the pattern of racketeering activity. This requirement helps distinguish between the enterprise element and the pattern of racketeering activity element.

In [Ferluga v. Eickhoff, 408 F.Supp.2d 1153, 1166-67 \(D. Kan. 2006\)](#), the court explained that proving an enterprise requires showing that "the enterprise exists separate and apart from the pattern of racketeering activity." While it is "not necessary to show that the enterprise has some function wholly unrelated to the racketeering activity," it must have "an existence beyond that which is necessary merely to commit each of the acts charged as predicate racketeering offenses."

This principle is also reflected in [United States v. Smith, 413 F.3d 1253, 1266-67 \(10th Cir. 2005\)](#), which stated that the government must prove "that the enterprise had an existence separate and apart from the pattern of racketeering activity." While Smith was overruled regarding its requirement for a decision-making framework, its holding on the separate existence requirement remains valid.

## **Interstate Commerce Requirement**

For a RICO enterprise to fall under federal jurisdiction, its activities must affect interstate or foreign commerce. [United States v. DeLeon, No. CR 15-4268 JB \(D. N.M. Jan 21, 2020\)](#) notes that VICAR "employs a slightly narrower definition of the term 'enterprise'" requiring that the enterprise "is engaged in, or the activities of which affect, interstate or foreign commerce."

Similarly, [Joseph v. U.S. Pub. Defenders Office](#) states that RICO prohibits "the use of a pattern of racketeering activity to infiltrate, control, or operate 'a[n] enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.'" This interstate commerce connection is essential for federal RICO jurisdiction.

# Types of Enterprises in the 10th Circuit

## Legal Entities

The 10th Circuit recognizes various legal entities as potential RICO enterprises, consistent with the statutory definition in 18 U.S.C. § 1961(4). These include:

1. Corporations: In [Mitchell v. Wells Fargo Bank, 355 F.Supp.3d 1136 \(D. Utah 2018\)](#), the court affirmed that an "enterprise" includes "any individual, partnership, corporation, association, or other legal entity."
2. Partnerships and Associations: These formal legal structures are explicitly included in the statutory definition and recognized by the 10th Circuit.
3. Government Entities: While not explicitly addressed in the provided materials, the expansive definition of "enterprise" in the 10th Circuit would likely include government entities, consistent with broader RICO jurisprudence.

## Associations-in-Fact

Perhaps more complex is the 10th Circuit's treatment of associations-in-fact as RICO enterprises. These are informal groupings that do not constitute legal entities but nonetheless can qualify as enterprises under RICO.

In [100 Mount Holly Bypass v. Axos Bank, Case No. 2:20-CV-856-TS-CMR \(D. Utah Jul 27, 2021\)](#), the court explained: "Where the alleged enterprise is an 'association-in-fact'—that is, comprised of actors not formally or legally affiliated with one another—the enterprise must have (1) 'a purpose,' (2) 'relationships among those associated with the enterprise,' and (3) 'longevity sufficient to permit these associates to pursue the enterprise's purpose.'"

[Dugan v. State Farm Mut. Ins. Co., Case No. CIV-17-1221-R \(W.D. Okla. Apr 03, 2018\)](#) further explains that associations-in-fact may exist "even without a partnership, corporation, or formal association among Defendants." The court notes that such enterprises need not have "a formal hierarchy, chain of command, fixed roles, a name, established rules, initiation ceremonies, or regular meetings."

## Proving the Existence of a RICO Enterprise

### Evidence Required

The 10th Circuit has provided guidance on what evidence is necessary to prove the existence of a RICO enterprise. [United States v. DeLeon, No. CR 15-4268 JB \(D. N.M. Jan 01, 2020\)](#) notes that courts generally "liberally admit evidence of prior bad acts as it is relevant to proving the existence, organization, and nature of the RICO or VICAR enterprise, and how each defendant engaged in the pattern of racketeering." This evidence is

admitted not "for propensity purposes," but rather to "prove that the defendant was a member of an enterprise as defined by the meaning of RICO."

In [Carlson v. Town of Mountain Vill., Civil Action No. 17-cv-02887-PAB-STV \(D. Colo. Mar 25, 2019\)](#), the court stated that an enterprise's existence is proven "by evidence of an ongoing organization... and by evidence that the various associates function as a continuing unit."

## **Relationship to Organized Crime**

Importantly, the 10th Circuit has rejected the notion that a RICO enterprise must be connected to organized crime. In [Plains Resources, Inc. v. Gable, 782 F.2d 883 \(10th Cir. 1986\)](#), the court disagreed "with the view that, to state such a RICO claim, a plaintiff must allege and prove that the conduct described as 'racketeering activity' is connected to criminal conduct of an organized nature." The court noted that "[n]o language in the statute itself limits RICO's civil remedies to suits against persons connected with organized crime," and that Congress deliberately declined to create such a limitation.

This broad approach is consistent with the Supreme Court's interpretation and reflects the 10th Circuit's understanding that RICO applies beyond traditional organized crime contexts.

## **Pleading Requirements**

To adequately plead a RICO enterprise in the 10th Circuit, plaintiffs must allege facts that establish the structural features required by Boyle. In [Dugan v. State Farm Mut. Ins. Co., Case No. CIV-17-1221-R \(W.D. Okla. Apr 03, 2018\)](#), the court explained that plaintiffs "must plead a plausible 'association-in-fact enterprise'" with "at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose."

Failure to adequately plead these elements will result in dismissal of the RICO claim. For example, in [Sullivan v. Boettcher & Co., 714 F. Supp. 1132 \(D. Colo. 1989\)](#), the court dismissed a RICO claim because "the plaintiffs have not alleged an enterprise separate and apart from the sued defendants."

## **Analysis of Specific Cases**

Several 10th Circuit cases provide instructive examples of how the court applies these principles in practice:

### **[United States v. Kamahele, 748 F.3d 984 \(10th Cir. 2014\)](#)**

This case provides a clear articulation of the requirements for an association-in-fact enterprise following Boyle. The court emphasized that an

enterprise requires "(1) a purpose, (2) relationships among those associated with the enterprise, and (3) longevity sufficient to permit those associated with the enterprise to pursue the enterprise's purpose." [Id. at 1003](#). The court also noted that an enterprise may exist "even without a formal hierarchy, chain of command, fixed roles, a name, established rules, initiation ceremonies, or regular meetings." *Id.*

### **George v. Urban Settlement Servs., 833 F.3d 1242 (10th Cir. 2016)**

This case addressed the distinctness requirement, with the court concluding that the plaintiffs "plausibly allege the existence of an association-in-fact enterprise distinct from BOA." The court found that BOA was "both sufficiently distinct from the BOA-Urban association-in-fact enterprise and that BOA conducted the affairs of the enterprise rather than simply its own affairs." This case illustrates how the 10th Circuit analyzes the distinctness requirement in practice.

### **Safe Streets Alliance v. Hickenlooper, 859 F.3d 865 (10th Cir. 2017)**

In this case, the court examined whether marijuana growers constituted an association-in-fact enterprise under RICO. The court noted that the plaintiffs alleged "that the Marijuana Growers are each subject to civil liability under § 1964(c) for the injuries they have caused to the Reillys' property by operating their association-in-fact enterprise, which by definition flouts the CSA, and therefore violates RICO." This case demonstrates how the 10th Circuit applies RICO to non-traditional contexts.

## **Exceptions and Limitations**

### **No Requirement for Economic Motive**

The 10th Circuit, consistent with Supreme Court precedent, does not require that a RICO enterprise have an economic motive. As noted in the secondary material "[RICO - the rejection of an economic motive requirement](#)," the Supreme Court has established a precedent "for a liberal reading of RICO, and specifically the term 'enterprise,'" which "does not require an economic motive."

### **No Connection to Organized Crime Required**

As discussed earlier, the 10th Circuit has explicitly rejected the requirement that a RICO enterprise must be connected to organized crime. [Plains Resources, Inc. v. Gable, 782 F.2d 883 \(10th Cir. 1986\)](#) establishes that a RICO plaintiff need not "aver and prove that the conduct described as racketeering activity be connected to criminal conduct of an organized nature."

## **Illegitimate Enterprises**

The 10th Circuit recognizes that purely illegitimate organizations can constitute RICO enterprises. This follows the Supreme Court's ruling in *United States v. Turkette*, 452 U.S. 576 (1981), which held that "purely illegitimate groups can constitute RICO enterprises." This interpretation "breathed new life into RICO by allowing prosecutors to go directly after organized criminals without awaiting efforts to infiltrate legitimate businesses."

## **Conclusion**

In the 10th Circuit, a RICO enterprise encompasses a broad range of entities, consistent with the statutory definition in 18 U.S.C. § 1961(4). This includes formal legal entities like corporations and partnerships, as well as informal associations-in-fact.

For associations-in-fact, the 10th Circuit follows the Supreme Court's guidance in *Boyle v. United States*, 556 U.S. 938 (2009), requiring three structural features: a purpose, relationships among associates, and sufficient longevity. While the 10th Circuit previously required a more rigid "decision-making framework or mechanism" in [\*United States v. Smith\*, 413 F. 3d 1253 \(10th Cir. 2005\)](#), this approach was overruled following *Boyle*, bringing the circuit's interpretation in line with the Supreme Court's more flexible approach.

The 10th Circuit also maintains several key requirements that help define what constitutes a RICO enterprise: the enterprise must be distinct from the RICO "person" (defendant), the associates must function as a continuing unit, and the enterprise must exist separately from the pattern of racketeering activity. Additionally, the enterprise must be engaged in or affect interstate commerce to fall under federal jurisdiction.

Importantly, the 10th Circuit does not require a RICO enterprise to have an economic motive or a connection to traditional organized crime, consistent with the broad interpretive approach endorsed by the Supreme Court. This allows RICO to be applied in various contexts beyond traditional organized crime scenarios.

In summary, the 10th Circuit's approach to defining a RICO enterprise balances the need for some structural features with the flexibility intended by Congress and endorsed by the Supreme Court, resulting in a broad but not boundless conception of what constitutes an enterprise under RICO.

## **Legal Authorities**

[\*George v. Urban Settlement Servs.\*, 833 F.3d 1242 \(10th Cir. 2016\)](#)

**U.S. Court of Appeals — Tenth Circuit**

## **Extract**

We conclude these allegations are sufficient to plausibly allege that BOA is both sufficiently distinct from the BOA-Urban association-in-fact enterprise and that BOA conducted the affairs of the enterprise rather than simply its own affairs. Because the plaintiffs plausibly allege the existence of an association-in-fact enterprise distinct from BOA, we hold that the district court erred in concluding the plaintiffs failed to adequately plead the enterprise element of their RICO claim.

## **Summary**

For an entity to be considered an enterprise under RICO in the Tenth Circuit, it must be distinct from the RICO person. The court found that the plaintiffs sufficiently alleged an association-in-fact enterprise that was distinct from BOA, which is crucial for meeting the enterprise element of a RICO claim. This suggests that an enterprise can be an association-in-fact, which is a group of individuals or entities associated together for a common purpose, and it must be distinct from the individual or entity accused of conducting the enterprise's affairs.

[United States v. Garcia, 793 F.3d 1194 \(10th Cir. 2015\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

Defendants were charged under RICO, 18 U.S.C. § 1962(d), with conspiring to violate 18 U.S.C. § 1962(c). Section 1962(c) states: It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

### **Summary**

Direct reference to the statutory language of 18 U.S.C. § 1962(c), which defines an enterprise under RICO as one that is engaged in or affects interstate or foreign commerce. This is a critical component of RICO charges, as it establishes the jurisdictional basis for federal involvement.

[U.S. v. Smith, 413 F.3d 1253 \(10th Cir. 2005\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

## **Extract**

A RICO enterprise 'includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961(4). In United States v. Turkette, 452 U.S. 576, 583, 101 S.Ct. 2524, 69 L.Ed.2d 246 (1981), the Supreme Court held that a RICO enterprise 'is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.' The Court also emphasized that the concepts of an enterprise and a pattern of racketeering activity are distinct, stating that '[w]hile the proof used to establish these separate elements may in particular cases coalesce, proof of one does not necessarily establish the other.' Id.

## **Summary**

Definition of a RICO enterprise as per 18 U.S.C. § 1961(4) and further clarifies it with the Supreme Court's interpretation in United States v. Turkette. It explains that a RICO enterprise can be any legal entity or group of individuals associated in fact, and it must be an ongoing organization where associates function as a continuing unit. The passage also distinguishes between the enterprise and the pattern of racketeering activity, emphasizing that they are separate elements.

[United States v. DeLeon, No. CR 15-4268 JB \(D. N.M. Jan 21, 2020\)](#)

## **U.S. District Court — District of New Mexico**

## **Extract**

RICO states that an enterprise 'includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961. VICAR employs a slightly narrower definition of the term 'enterprise' such that it 'includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce.' 18 U.S.C. § 1959(b). 'An association-in-fact requires: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit those associated with the enterprise to pursue the enterprise's purpose.' United States v. Kamahele, 748 F.3d 984, 1003 (10th Cir. 2014).

## **Summary**

Definition of what constitutes an enterprise under RICO and VICAR statutes. It specifies that an enterprise can be any legal entity or a group of individuals associated in fact, with the requirement that the enterprise's activities affect interstate or foreign commerce. The passage also references

a 10th Circuit case, United States v. Kamahele, which outlines the requirements for an association-in-fact: a purpose, relationships among those associated, and sufficient longevity to pursue the enterprise's purpose. This information is directly relevant to understanding what constitutes an enterprise under RICO in the 10th Circuit.

[Safe Streets Alliance v. Hickenlooper, 859 F.3d 865 \(10th Cir. 2017\)](#)

**U.S. Court of Appeals — Tenth Circuit**

**Extract**

Consequently, the Reillys allege that the Marijuana Growers are each subject to civil liability under § 1964(c) for the injuries they have caused to the Reillys' property by operating their association-in-fact enterprise, which by definition flouts the CSA, and therefore violates RICO. See 18 U.S.C. § 1962(c). ... Congress has determined that '[i]t shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity....' 18 U.S.C. § 1962(c). ... We have held that a plaintiff asserting a § 1964(c) claim for a violation of § 1962(c) 'must plausibly allege that' the defendants 'each (1) conducted the affairs (2) of an enterprise (3) through a pattern (4) of racketeering activity.'

**Summary**

Clear explanation of what constitutes an enterprise under RICO in the Tenth Circuit. It specifies that an enterprise can be an "association-in-fact" and that it must be engaged in activities affecting interstate or foreign commerce. The passage also outlines the elements that must be alleged for a RICO claim: conducting the affairs of an enterprise through a pattern of racketeering activity. This is a general principle applicable to RICO cases in the Tenth Circuit.

[United States v. Deleon, No. CR 15-4268 JB \(D. N.M. Jan 01, 2020\)](#)

**U.S. District Court — District of New Mexico**

**Extract**

The United States notes that it must prove the Defendants were members of an enterprise to satisfy RICO. See Response at 1-2. The United States asserts that courts generally 'liberally admit evidence of prior bad acts as it is relevant to proving the existence, organization, and nature of the RICO or VICAR enterprise, and how each defendant engaged in the pattern of racketeering.' ... The United States asserts that it will not introduce the prior acts 'for propensity purposes,' but rather to 'prove that the defendant

was a member of an enterprise as defined by the meaning of RICO.<sup>1</sup> J. Gallegos Response at 1-2 (emphasis in original)(citing United States v. Kamahele, 748 F.3d at 1007).

## **Summary**

In the Tenth Circuit, proving the existence of a RICO enterprise involves demonstrating that defendants were members of an enterprise. The courts in this circuit tend to admit evidence of prior bad acts liberally, as it is relevant to proving the existence, organization, and nature of the RICO enterprise. This suggests that the definition of an enterprise under RICO in the Tenth Circuit includes the organization and pattern of racketeering activities.

[U.S. v. Hutchinson, 573 F.3d 1011 \(10th Cir. 2009\)](#)

### **U.S. Court of Appeals — Tenth Circuit**

#### **Extract**

For our part, in United States v. Smith, 413 F.3d 1253 (10th Cir.2005), we sided with the Third Circuit and those courts requiring more rather than less 'structure.' We held that, to distinguish the RICO enterprise element from the statute's pattern of racketeering activity, the government must prove: (1) the existence of a decision-making framework or mechanism for controlling the group, (2) that various associates functioned as a continuing unit, and (3) that the enterprise had an existence separate and apart from the pattern of racketeering activity. Id. at 1266-67.

## **Summary**

The passage from "U.S. v. Hutchinson" provides a clear outline of what constitutes an enterprise under RICO in the Tenth Circuit. It specifies that the government must demonstrate a decision-making framework, that associates function as a continuing unit, and that the enterprise exists separately from the racketeering activity. This aligns with the Tenth Circuit's precedent in "United States v. Smith," indicating a requirement for more structure in defining an enterprise.

[United States v. Kamahele, 748 F.3d 984 \(10th Cir. 2014\)](#)

### **U.S. Court of Appeals — Tenth Circuit**

#### **Extract**

The term "enterprise" "includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." 18 U.S.C. § 1961(4) (2006). An

association-in-fact requires: (1) a purpose, (2) relationships among those associated with the enterprise, and (3) longevity sufficient to permit those associated with the enterprise to pursue the enterprise's purpose. See Boyle v. United States, 556 U.S. 938, 946, 129 S.Ct. 2237, 173 L.Ed.2d 1265 (2009). An enterprise may exist even without a formal hierarchy, chain of command, fixed roles, a name, established rules, initiation ceremonies, or regular meetings. Id. at 948, 129 S.Ct. 2237. To qualify as an enterprise under RICO, the association need only be a "continuing unit that functions with a common purpose." Id.; see United States v. Turkette, 452 U.S. 576, 583, 101 S.Ct. 2524, 69 L.Ed.2d 246 (1981) (concluding that an association-in-fact enterprise constitutes a "group of persons associated together for a common purpose of engaging in a course of conduct").

## **Summary**

Detailed explanation of what constitutes an enterprise under RICO, specifically within the Tenth Circuit. It outlines the requirements for an association-in-fact, which include a purpose, relationships among members, and sufficient longevity. It also clarifies that a formal structure is not necessary for an enterprise to exist under RICO.

[Torwest DBC, Inc. v. Dick, 810 F.2d 925 \(10th Cir. 1987\)](#)

### **U.S. Court of Appeals — Tenth Circuit**

#### **Extract**

A violation of section 1962(c) thus 'requires (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 105 S.Ct. 3275, 3285, 87 L.Ed.2d 346 (1985).

## **Summary**

Clear definition of what constitutes a violation under section 1962(c) of RICO, which includes the requirement of an "enterprise." This is relevant to understanding what constitutes an enterprise under RICO in the Tenth Circuit, as it is part of the elements needed to establish a RICO violation.

[Plains Resources, Inc. v. Gable, 782 F.2d 883 \(10th Cir. 1986\)](#)

### **U.S. Court of Appeals — Tenth Circuit**

#### **Extract**

We disagree with the view that, to state such a RICO claim, a plaintiff must allege and prove that the conduct described as 'racketeering activity' is connected to criminal conduct of an organized nature. We are persuaded by the opinions which have held that there is no such requirement in a civil

setting. ... No language in the statute itself limits RICO's civil remedies to suits against persons connected with organized crime, and the legislative history reveals that Congress declined to create such a limitation, both to insure that the statute would achieve its purpose, Sutliff, Inc., *supra*, 727 F. 2d at 654, and because of constitutional problems and vagueness which Congress thought that requiring a connection of this sort might create. ... In sum, the language and history of the statute and the guidance from the Court in Sedima and other courts cause us to reject the requirement that a RICO plaintiff must aver and prove that the conduct described as racketeering activity be connected to criminal conduct of an organized nature.

## **Summary**

The passage from the Plains Resources, Inc. v. Gable case clarifies that within the Tenth Circuit, a RICO claim does not require the plaintiff to prove that the racketeering activity is connected to organized crime. This interpretation aligns with the legislative history and the statute's language, which do not limit RICO's civil remedies to organized crime. This understanding is crucial for determining what constitutes an enterprise under RICO in the Tenth Circuit, as it broadens the scope beyond traditional organized crime.

[Dugan v. State Farm Mut. Ins. Co., Case No. CIV-17-1221-R \(W.D. Okla. Apr 03, 2018\)](#)

## **U.S. District Court — Western District of Oklahoma**

### **Extract**

To successfully state a RICO claim, Plaintiffs must allege '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' Robbins v. Wilkie, 300 F.3d 1208, 1210 (10th Cir. 2002) (quoting Sedima, S.P.R.L. v. Imrex Co., Inc., 473 U.S. 479, 496 (1985)). The 'enterprise' element 'includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961(4). The Supreme Court has reiterated the broad scope of a RICO enterprise. See Boyle v. United States, 556 U.S. 938, 944 (2009) ('This enumeration of included enterprises is obviously broad. . . .'). Nonetheless, at a minimum—given that Plaintiffs do not discuss a partnership, corporation, or formal association among Defendants—Plaintiffs must plead a plausible 'association-in-fact enterprise.' *Id.* at 946. This 'must have at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose.' *Id.*

## **Summary**

Detailed explanation of what constitutes an "enterprise" under RICO in the 10th Circuit. It references the statutory definition from 18 U.S.C. § 1961(4)

and the Supreme Court's interpretation in *Boyle v. United States*, emphasizing the broad scope of what can be considered an enterprise. The passage also outlines the necessary structural features of an "association-in-fact enterprise," which include a purpose, relationships among those associated, and sufficient longevity. This information is directly relevant to understanding the requirements for establishing an enterprise under RICO in the 10th Circuit.

[Skeet v. Sears, Roebuck & Co., 760 F. Supp. 872 \(D. Kan. 1991\)](#)

### **U.S. District Court — District of Kansas**

#### **Extract**

Thus, in order to assert a civil RICO claim under § 1962(c), plaintiff must allege: '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496, 105 S.Ct. 3275, 3285, 87 L.Ed.2d 346 (1985); *Cayman Exploration Corp. v. United Gas Pipe Line Co.*, 873 F.2d 1357, 1362 (10th Cir.1989).

#### **Summary**

Elements required to assert a civil RICO claim under § 1962(c), which includes the necessity of alleging the existence of an "enterprise." This is directly relevant to understanding what constitutes an enterprise under RICO in the 10th Circuit. The passage references both a Supreme Court case and a 10th Circuit case, indicating that these elements are well-established and generally applicable within the jurisdiction.

[Ferluga v. Eickhoff, 408 F.Supp.2d 1153 \(D. Kan. 2006\)](#)

### **U.S. District Court — District of Kansas**

#### **Extract**

A RICO enterprise 'includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961(4). The existence of an enterprise requires proof (1) of an ongoing organization with a decision-making framework or mechanism for controlling the group, (2) that the various associates function as a continuing unit, and (3) that the enterprise exists separate and apart from the pattern of racketeering activity. *Smith*, 413 F.3d at 1266-67. With respect to this last element, 'it is not necessary to show that the enterprise has some function wholly unrelated to the racketeering activity, but rather that it has an existence beyond that which is necessary merely to commit each of the acts charged as predicate racketeering offenses.' *Id.* at 1267 (quotation omitted).

## **Summary**

Definition of what constitutes a RICO enterprise under 18 U.S.C. § 1961(4) and outlines the necessary elements to establish the existence of such an enterprise. It specifies that an enterprise can include various legal entities or groups of individuals associated in fact. The passage also details the requirements for proving an enterprise, including the need for an ongoing organization, functioning as a continuing unit, and existing separately from the racketeering activity. This information is directly relevant to understanding what constitutes an enterprise under RICO in the 10th Circuit.

[Carlson v. Town of Mountain Vill., Civil Action No. 17-cv-02887-PAB-STV \(D. Colo. Mar 25, 2019\)](#)

## **U.S. District Court — District of Colorado**

### **Extract**

In order to state a claim under RICO, plaintiff must allege: “(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.” See Bixler v. Foster, 596 F.3d 751, 761 (10th Cir. 2010). ... An enterprise is “an entity separate and apart from the pattern [of racketeering] in which it engages,” and its existence is proven “by evidence of an ongoing organization. ... and by evidence that the various associates function as a continuing unit.” United States v. Turkette, 452 U.S. 576, 583 (1981); see also Nat'l Union Fire Ins. Co. of Pittsburgh, Pa. v. Kozeny, 115 F. Supp. 2d 1210, 1227 (D. Colo. 2000) (applying federal case law construing RICO to COCCA). The enterprise must “function as a continuing unit with an existence beyond that necessary to commit the predicate acts and have an identity distinct from that of the individual [d]efendants.” Nat'l Union, 115 F. Supp. 2d at 1227.

## **Summary**

Clear definition of what constitutes an enterprise under RICO in the 10th Circuit. It specifies that an enterprise must be an entity separate from the pattern of racketeering, proven by evidence of an ongoing organization, and that the associates function as a continuing unit. This definition is supported by federal case law, making it applicable to RICO claims in the 10th Circuit.

[Sullivan v. HCA Healthcare, Inc., Case No. 19-2034-JAR-TJJ \(D. Kan. Aug 26, 2019\)](#)

## **U.S. District Court — District of Kansas**

## **Extract**

See Boyle v. United States, 556 U.S. 938, 946 (2009) ('From the terms of RICO, it is apparent that an association-in-fact enterprise must have at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose. As we succinctly put it in Turkette, an association-in-fact enterprise is a group of persons associated together for a common purpose of engaging in a course of conduct.')

## **Summary**

The passage references the U.S. Supreme Court case Boyle v. United States, which outlines the structural features required for an association-in-fact enterprise under RICO. These features include a purpose, relationships among those associated with the enterprise, and sufficient longevity to pursue the enterprise's purpose. This interpretation is generally applicable and not limited to specific cases, providing a foundational understanding of what constitutes an enterprise under RICO.

### [Mitchell v. Wells Fargo Bank, 355 F.Supp.3d 1136 \(D. Utah 2018\)](#)

#### **U.S. District Court — District of Utah**

## **Extract**

An 'enterprise' is 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961(4).

## **Summary**

Direct definition of what constitutes an "enterprise" under the RICO Act, which is relevant to understanding how the 10th Circuit would interpret this term. The definition includes both legal entities and associations in fact, which are not legal entities but are groups of individuals associated together for a common purpose.

### [Sullivan v. Boettcher & Co., 714 F. Supp. 1132 \(D. Colo. 1989\)](#)

#### **U.S. District Court — District of Colorado**

## **Extract**

Plaintiffs allege that Boettcher & Company, Boettcher Properties, Ltd., Boettcher & Company, Inc., Boettcher Investment Corporation and John Does 1 through 10 engaged in a pattern of racketeering activity and constitute an 'enterprise' as defined at 18 U.S.C. § 1961(4). ... All of the

circuit courts of appeal (except the Eleventh Circuit) that have considered the issue agree that the RICO 'person' sued as defendant must be distinct from the RICO 'enterprise.' ... Plaintiffs impermissibly assert that the Boettcher defendants and John Does 1 through 10 constitute the RICO enterprise. Since the plaintiffs have not alleged an enterprise separate and apart from the sued defendants, their RICO claim must be dismissed.

## **Summary**

The passage from the *Sullivan v. Boettcher & Co.* case provides insight into the requirements for establishing a RICO enterprise in the Tenth Circuit. It emphasizes that the RICO "person" (defendant) must be distinct from the RICO "enterprise." This distinction is crucial for a valid RICO claim, and failure to allege an enterprise separate from the defendants results in dismissal of the claim. This requirement is consistent with the interpretation of other circuit courts, except the Eleventh Circuit.

[United States v. Martinez, 543 F.Supp.3d 1209 \(D. N.M. 2021\)](#)

## **U.S. District Court — District of New Mexico**

### **Extract**

[W]e hold that in order to convict a defendant for violating § 1962(d), the Government must prove beyond a reasonable doubt that the defendant: (1) by knowing about and agreeing to facilitate the commission of two or more acts (2) constituting a pattern (3) of racketeering activity (4) participates in (5) an enterprise (6) the activities of which affect interstate or foreign commerce.

## **Summary**

Clear definition of what constitutes an enterprise under RICO in the Tenth Circuit. It specifies that an enterprise is part of the elements required to convict a defendant under § 1962(d), which involves participation in an enterprise whose activities affect interstate or foreign commerce.

[Edwards v. First Nat. Bank, Bartlesville, Oklahoma, 872 F.2d 347 \(10th Cir. 1989\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

As indicated, the defendants moved for summary judgment on several grounds: (1) The RICO claim was time barred; (2) there was no 'enterprise' or 'racketeering activity' within the meaning of 18 U.S.C. Sec. 1962(c); and (3) if there was any 'racketeering activity,' there was no 'pattern,' only

isolated acts. As indicated, the district court held that there was a genuine issue of material fact on the statute of limitations issue. The defendants do not reassert that matter in this court. The district court also held that there was no 'pattern' of racketeering activity by the defendants, and on this basis granted summary judgment.

## **Summary**

Grounds on which the defendants moved for summary judgment, specifically addressing the absence of an "enterprise" or "racketeering activity" as defined under 18 U.S.C. Sec. 1962(c). This indicates that for a RICO claim to proceed, there must be an identifiable enterprise and a pattern of racketeering activity, which the court found lacking in this case.

### [Joseph v. U.S. Pub. Defenders Office](#)

#### **U.S. District Court — District of New Mexico**

##### **Extract**

The RICO statute sets forth four specific prohibitions against use of a pattern of racketeering activity to infiltrate, control, or operate "a[n] enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce." 18 U.S.C. § 1962.

## **Summary**

Definition of an enterprise under the RICO statute, which is relevant to understanding what constitutes an enterprise in the context of RICO claims. The definition is based on the federal statute, which is applicable in the Tenth Circuit as well as other circuits.

### [Lopez v. Marriott Int'l, Civil Action 23-cv-03308-RMR-KAS \(D. Colo. Feb 27, 2025\)](#)

#### **U.S. District Court — District of Colorado**

##### **Extract**

The definition of "enterprise" under RICO is similar to that of a "venture" under the TVPA: it "includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity[.]" 18 U.S.C. § 1961(4) (defining "enterprise"). In Boyle v. United States, the Supreme Court clarified that an association-in-fact enterprise must have three structural features: "a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose." 556 U.S. 938, 946 (2009). It need not have a hierarchical structure

or chain of command. Id. at 948. Additionally, a defendant need not bear primary responsibility for the enterprise's affairs, have a formal position in the enterprise, or even exert significant control over the enterprise to face RICO liability.

## **Summary**

Definition of "enterprise" under RICO, which includes various legal entities and associations-in-fact. The Supreme Court's clarification in Boyle v. United States adds that an association-in-fact enterprise must have a purpose, relationships, and longevity, but does not require a hierarchical structure. This information is applicable to understanding what constitutes an enterprise under RICO in the 10th Circuit.

[100 Mount Holly Bypass v. Axos Bank, Case No. 2:20-CV-856-TS-CMR \(D. Utah Jul 27, 2021\)](#)

## **U.S. District Court — District of Utah**

### **Extract**

Section 1961(4) of RICO defines an enterprise as 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' The Supreme Court has emphasized that 'enterprise' should be read broadly. Where the alleged enterprise is an 'association-in-fact'—that is, comprised of actors not formally or legally affiliated with one another—the enterprise must have (1) 'a purpose,' (2) 'relationships among those associated with the enterprise,' and (3) 'longevity sufficient to permit these associates to pursue the enterprise's purpose.'

## **Summary**

Definition of an enterprise under RICO, as per Section 1961(4), and explains the broad interpretation endorsed by the Supreme Court. It specifies the criteria for an "association-in-fact" enterprise, which includes having a purpose, relationships among associates, and sufficient longevity. This is relevant to understanding what constitutes an enterprise under RICO in the 10th Circuit, as federal interpretations apply.

[Watchous Enters. v. Pac. Nat'l Capital, No. 16-1432-JTM \(D. Kan. Mar 13, 2020\)](#)

## **U.S. District Court — District of Kansas**

## **Extract**

In its prior Order (Dkt. 167), the court reviewed the standards for liability under RICO. Such a claim requires proof that a defendant '(1) participated in the conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' *Tal v. Hogan*, 453 F.3d 1244, 1269 (10th Cir. 2006) (citing *Cayman Exploration Corp. v. United Gas Pipe Line Co.*, 873 F.2d 1357, 1362 (10th Cir. 1989)). A pattern of racketeering requires at least 'two instances of racketeering activity as defined in §1961(1) which amount to, or otherwise constitute a threat of continuing racketeering activity by the enterprise.' *Bacchus Indus. v. Arvin Indus.*, 939 F.2d 887, 891 (10th Cir.1991). A RICO enterprise may arise from an association in fact, which exists:

## **Summary**

Definition of what constitutes an enterprise under RICO in the 10th Circuit, specifically mentioning the requirement of participation in the conduct of an enterprise through a pattern of racketeering activity. It also references the need for at least two instances of racketeering activity and the possibility of a RICO enterprise arising from an association in fact.

[Robbins v. Wilkie, 300 F.3d 1208 \(10th Cir. 2002\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

To successfully state a RICO claim, a plaintiff must allege four elements: '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' *Sedima, S.P.R.L. v. Imrex Co., Inc.*, 473 U.S. 479, 496, 105 S.Ct. 3275, 87 L.Ed.2d 346 (1985); *BancOklahoma Mortgage Corp. v. Capital Title Co. Inc.*, 194 F.3d 1089, 1100 (10th Cir.1999).

## **Summary**

Elements required to state a RICO claim, which includes the necessity of alleging the existence of an "enterprise." This is directly relevant to understanding what constitutes an enterprise under RICO in the Tenth Circuit, as it is one of the four essential elements of a RICO claim.

[Bixler v. Foster, 596 F.3d 751 \(10th Cir. 2010\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

## **Extract**

A RICO claim 'must allege a violation of 18 U.S.C. § 1962, which consists of four elements: (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.' Gillmor, 490 F.3d at 797 (quotation omitted).

## **Summary**

Clear definition of what constitutes an enterprise under RICO in the Tenth Circuit. It specifies that a RICO claim must allege a violation of 18 U.S.C. § 1962, which includes the element of an "enterprise." This indicates that for a RICO claim to be valid, there must be conduct of an enterprise through a pattern of racketeering activity. The context of the passage is a legal case from the Tenth Circuit, which means it is directly applicable to cases within this jurisdiction.

[National Union Fire Ins. Co. of Pitts. v. Kozeny, 115 F.Supp.2d 1210 \(D. Colo. 2000\)](#)

## **U.S. District Court — District of Colorado**

### **Extract**

In determining the existence of an 'enterprise' pursuant to COCCA, I may rely on federal case law construing the Racketeer Influenced and Corrupt Organization Act (RICO), 18 U.S.C. § 1961, et seq. (1988) because COCCA was modeled after the federal act.

### **Summary**

The court may rely on federal case law interpreting RICO to determine the existence of an "enterprise" under COCCA. Since COCCA was modeled after RICO, the interpretations of what constitutes an "enterprise" under RICO are relevant and applicable to COCCA cases. This suggests that the definition and understanding of an "enterprise" under RICO in the 10th Circuit can be informed by federal case law.

[RICO - the rejection of an economic motive requirement.](#)

**Journal of Criminal Law and Criminology - Northwestern University, School of Law - Randolph, Jennifer G. - 1995-03-22**

### **Extract**

RICO requires that the enterprise have an economic motive, the Court defined enterprise as 'an entity,... a group of persons associated together for a common purpose of engaging in a course of conduct,' which does not

require an economic motive. Thus, the Court established precedent for a liberal reading of RICO, and specifically the term 'enterprise.'

## **Summary**

The Supreme Court has established a precedent for a liberal interpretation of RICO, specifically regarding the term "enterprise." It clarifies that an enterprise under RICO does not require an economic motive, which suggests a broad application of the term. This interpretation is significant because it contrasts with the narrower interpretations that require an economic motive, as seen in some other circuits.

[Could you use that in a sentence, please? The intersection of prosecutorial ethics, relevant conduct sentencing, and criminal RICO indictments.](#)

**Notre Dame Law Review - University of Notre Dame Law School - McClintock, William S. - 2013-12-01**

## **Extract**

The Tenth Circuit, although it has traditionally favored 'horizontal relatedness,' has demonstrated an implicit willingness to accept 'vertical relatedness.'

## **Summary**

The Tenth Circuit has traditionally favored the concept of "horizontal relatedness" when determining what constitutes an enterprise under RICO. However, it also shows an implicit willingness to accept "vertical relatedness." This suggests that the Tenth Circuit may consider both horizontal and vertical relationships between predicate acts when evaluating the existence of a RICO enterprise.

[What can RICO not do? RICO and the non-economic intrastate enterprise that perpetrates only non-economic racketeering activity.](#)

**Journal of Criminal Law and Criminology - Northwestern University, School of Law - Nisbet, Brian - 2009-03-22**

## **Extract**

Like the rest of RICO, [section] 1962(c) contains broad terms. (30) Enterprise and racketeering activity, defined in [section] 1961(1) and (4) of RICO, are generous in scope. (31) '[A]ny individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity' can constitute a RICO enterprise. (32) Federal courts have a significant amount of discretion in recognizing a RICO enterprise. (33) There is no rigid standard that must

be satisfied. (34) Minimally, a RICO enterprise must be an ongoing organization, formal or informal, whose associates operate as a continuous unit. (35)

## **Summary**

General definition of what constitutes an enterprise under RICO, which is applicable across various jurisdictions, including the Tenth Circuit. It highlights the broad and inclusive nature of the term "enterprise" under RICO, allowing for a wide range of entities and associations to be considered as such. This broad definition is crucial for understanding how RICO can be applied in different cases.

[From the sophisticated undertakings of the Genovese crime family to the everyday criminal: the loss of congressional intent in modern criminal RICO application.](#)

**St. Thomas Law Review - St. Thomas Law Review - Donaher, Emily A. - 2016-03-22**

## **Extract**

RICO enterprises could be proven by simply adducing evidence that demonstrates a formal or informal association that is ongoing, along with evidence that those participating in the organization operate as a 'continuing unit.' Yet, there is no enterprise under RICO if the so-called 'enterprise' is merely a name for the crimes that the defendants committed, or for the defendant's agreement to commit these crimes that was separately charged from the conspiracy count.

## **Summary**

General understanding of what constitutes a RICO enterprise, emphasizing the need for a formal or informal association that operates as a continuing unit. It also clarifies that an enterprise cannot merely be a label for the crimes committed or an agreement to commit crimes. This understanding is applicable across various circuits, including the Tenth Circuit, as it reflects a broader interpretation of RICO enterprises.

[Vol. 4 No. 3 Pg. 7 Rico and the Prime: Taking a Bite Out of Crime?](#)

**Utah Bar Journal - Utah State Bar - 1991-00-00**

## **Extract**

The plaintiff must next demonstrate the existence of an 'enterprise.' There is no requirement that the enterprise be criminal in character; the enterprise may be a legitimate business, such as a bank or a bank holding company.

Indeed, even the office of state governor has been found to be an enterprise subject to RICO. Nor must the enterprise be formally organized; it may be an 'association-in-fact.' The enterprise may be the perpetrator, instrument, victim or prize of the fraud. The enterprise must be distinguished from the pattern of racketeering activity. Notwithstanding, the same evidence may be used to establish both the pattern and the existence of the enterprise.

## **Summary**

Detailed explanation of what constitutes an enterprise under RICO, noting that it does not need to be criminal, can be a legitimate business, and does not need to be formally organized. This aligns with the general understanding of RICO enterprises and is applicable to cases in the 10th Circuit.

[Reflections on Reves v. Ernst & Young: its meaning and impact on substantive, accessory, aiding abetting and conspiracy liability under RICO.](#)

**American Criminal Law Review - Georgetown University Law Center - Blakey, G. Robert - 1996-01-01**

## **Extract**

described the elements that the government or a civil plaintiff must prove to show the existence of an association-in-fact enterprise: '[t]he [enterprise] is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.'

## **Summary**

Criteria for establishing an association-in-fact enterprise under RICO, which includes evidence of an ongoing organization and that the associates function as a continuing unit. This is a general principle applicable to RICO cases, including those in the Tenth Circuit.

[Corporate Criminal Liability: End It, Don't Mend It.](#)

**The Journal of Corporation Law - University of Iowa Journal of Corporation Law - Smith, Stephen F. - 2022-06-22**

## **Extract**

Subsection 1962(c), the most commonly used basis for substantive RICO charges, is instructive. It imposes civil and criminal liability on the persons 'employed by or associated with' organized-crime syndicates or other RICO 'enterprises' who 'conduct, or participate in the conduct of, the [enterprise's] affairs' through a 'pattern of racketeering activity.' (18) Although, as used in federal law, the term 'persons' can be construed to encompass corporations

and certain other legal entities depending on context, (19) RICO defines 'person' narrowly so as to exclude organized crime syndicates. (20) Congress thus recognized that the vital objective of eradicating organized crime could be fully accomplished by taking aim at those who commit the racketeering activities... (18.) 18 U.S.C. [section] 1962(c); see also id. [section][section] 1963 (criminal penalties), 1964 (civil penalties). Although it was originally quite doubtful that purely criminal organizations could constitute RICO enterprises, the Supreme Court has long endorsed that expansive interpretation, which breathed new life into RICO by allowing prosecutors to go directly after organized criminals without awaiting efforts to infiltrate legitimate businesses. See *United States v. Turkette*, 452 U.S. 576, 587 (1981) (holding that purely illegitimate groups can constitute RICO enterprises).

## **Summary**

The passage provides insight into what constitutes an enterprise under RICO by explaining that RICO applies to persons associated with organized crime syndicates or other enterprises who conduct the enterprise's affairs through racketeering. It also clarifies that the Supreme Court has endorsed an interpretation that allows purely illegitimate groups to be considered RICO enterprises, as seen in *United States v. Turkette*. This interpretation is applicable across federal jurisdictions, including the Tenth Circuit.

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

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

#### **Extract**

To establish a § 1962(c) RICO claim, the following elements must be proven:

- Enterprise: A structured group of individuals associated for a common purpose.

## **Summary**

Definition of an "enterprise" under § 1962(c) of the RICO statute, which is relevant to understanding what constitutes an enterprise in the context of RICO claims. The definition provided is broad and includes any structured group of individuals associated for a common purpose. This aligns with the general understanding of an enterprise under RICO, which can include both formal legal entities and informal associations. The passage does not specify any unique interpretation or application specific to the 10th Circuit, but it provides a foundational understanding that is applicable across jurisdictions.

### [Santos v. Delta Airlines, Inc.](#)

### **USDOL Administrative Review Board Decisions**

## **Extract**

Additionally, the court pointed out that because the RICO enterprise is not necessarily the named defendant in a RICO case, 'there is no necessary or, in many cases, even probable connection between where the RICO enterprise makes its decisions and whether the application of RICO to the racketeering activity at issue in a given case was the sort of activity with which Congress would have been concerned.' Id. Consequently, although the location of the enterprise - whether identified by its 'nerve center' or otherwise - may be relevant to determining the territoriality of some RICO claims, 'its relevance, if any, would depend on the facts.' Id. at \*7.

## **Summary**

Concept of a RICO enterprise and its relevance to the territoriality of RICO claims. It highlights that the RICO enterprise is not necessarily the named defendant and that the location of the enterprise may be relevant but is fact-dependent. This suggests that the definition of an enterprise under RICO is flexible and not strictly tied to the location or the identity of the enterprise, but rather to the pattern of racketeering activity and its impact.

### [RICO: A Primer](#)

## **Extract**

A plaintiff is required to demonstrate that the defendant conducted the affairs of an enterprise through a pattern of racketeering activity. The person and the enterprise generally must be distinct; but, of course, a Rico person can be a part of an enterprise.

## **Summary**

Under RICO, an enterprise is an entity whose affairs are conducted through a pattern of racketeering activity. The person and the enterprise must generally be distinct, although a RICO person can be part of the enterprise. This definition is applicable broadly to RICO cases, including those in the 10th Circuit.

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

## **Extract**

An enterprise is an individual or legal entity, or a union or group of individuals associated in fact although not a legal entity...

## **Summary**

Definition of what constitutes an "enterprise" under RICO, which includes individuals, legal entities, or groups of individuals associated in fact, even if not a legal entity. This definition is part of the general understanding of RICO and is applicable across different jurisdictions, including the 10th Circuit. The passage does not specify any unique interpretation or application of this definition within the 10th Circuit, suggesting that the general definition applies.

[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...

## **Summary**

Definition of what constitutes an "enterprise" under RICO, which includes individuals, legal entities, or groups of individuals associated in fact, even if not a legal entity. This definition is part of the federal RICO statute and is applicable in the 10th Circuit as well as other circuits.

[RICO: A Primer](#)

## **Extract**

A plaintiff is required to demonstrate that the defendant conducted the affairs of an enterprise through a pattern of racketeering activity. The person and the enterprise generally must be distinct; but, of course, a Rico person can be a part of an enterprise.

## **Summary**

Under RICO, an enterprise is an entity whose affairs are conducted through a pattern of racketeering activity. The enterprise must be distinct from the person conducting the racketeering, although the person can be part of the enterprise. This definition is applicable generally to RICO cases, including those in the 10th Circuit.

This memo was compiled by Vincent AI based on vLex materials available as of June 10, 2025. [View full answer on vLex](#)