

Question

What are the differences between subsections (a), (b), (c), and (d) of the RICO statute in the 10th Circuit?

Answer (Tenth Circuit)

Short response

The RICO statute (18 U.S.C. § 1962) in the 10th Circuit contains four distinct subsections: (a) prohibits investing income derived from racketeering activity in an enterprise, (b) prohibits acquiring or maintaining an interest in an enterprise through racketeering, (c) prohibits conducting an enterprise's affairs through racketeering, and (d) prohibits conspiring to violate any of the other three subsections.

Summary

The Racketeer Influenced and Corrupt Organizations Act (RICO) was enacted as Title IX of the Organized Crime Control Act of 1970 and is codified as 18 U.S.C. §§ 1961-1968. At its core, the statute contains four key prohibitions outlined in § 1962(a)-(d), each targeting different aspects of using racketeering activity in connection with an enterprise engaged in or affecting interstate commerce. In the Tenth Circuit, as in all federal circuits, these provisions create distinct causes of action with specific elements that must be proven.

Section 1962(a) prohibits the investment of income derived from racketeering activity in an enterprise. Section 1962(b), considered the least utilized provision, forbids acquiring or maintaining an interest in an enterprise through racketeering. Section 1962(c), the most commonly invoked provision, makes it unlawful for a person associated with an enterprise to conduct its affairs through racketeering activity. Finally, Section 1962(d) creates liability for conspiring to violate any of the other three substantive provisions. Each subsection requires proof of an enterprise and a pattern of racketeering activity but differs in how the defendant must interact with the enterprise and the racketeering activity.

Background and Legal Framework of RICO

The Racketeer Influenced and Corrupt Organizations Act (RICO) is primarily codified at 18 U.S.C. § 1962, which sets out four specific prohibitions against 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." [United States v. Joseph, CR 17-02483 KG/JHR \(D. N.M. Apr 11, 2022\)](#); [Jacobo-Rosas v. United States Attorney, CV 21-0789 KG/GBW \(D. N.M. Mar 02, 2022\)](#).

While RICO was originally enacted to combat organized crime, its use has expanded considerably in both criminal and civil contexts. All RICO subsections share certain common elements, including the existence of an enterprise engaged in or affecting interstate commerce and a pattern of racketeering activity. However, each subsection creates a distinct cause of action with its own specific elements.

The Four Subsections of RICO in Detail

Subsection (a): Investment of Racketeering Proceeds

Section 1962(a) makes it unlawful to invest income derived from a pattern of racketeering activity in an enterprise. [United States v. Joseph, CR 17-02483 KG/JHR \(D. N.M. Apr 11, 2022\)](#) ("Section 1962(a) makes it unlawful to invest income derived from a pattern of racketeering activity in an enterprise.").

The precise statutory language, as quoted in [Farlow v. Peat Marwick Mitchell & Co., 666 F. Supp. 1500 \(W.D. Okla. 1987\)](#), provides:

"It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt... to use or invest, directly or indirectly, any part of such income in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce."

A violation of § 1962(a) therefore requires proof that:

1. The defendant received income from a pattern of racketeering activity;
2. The defendant used or invested that income, or the proceeds of that income, in the acquisition of an interest in, or the establishment or operation of, an enterprise; and
3. The enterprise was engaged in, or its activities affected, interstate or foreign commerce.

An important distinction noted in the Tenth Circuit is that for claims under § 1962(a), "a plaintiff 'must plead facts tending to show that he was injured by the use or investment of racketeering income. Injury from the racketeering acts themselves is not sufficient because section 1962(a) does not prohibit those acts.'" [Zibalstar, L.C. v. Conte, Case No. 2:17-CV-563 \(D. Utah Mar 27, 2018\)](#).

This requirement creates a critical difference between § 1962(a) and the other subsections: the plaintiff must demonstrate an injury flowing specifically from the investment or use of racketeering proceeds in an enterprise, not merely from the predicate racketeering acts themselves.

Subsection (b): Acquisition or Maintenance of an Enterprise Through Racketeering

Section 1962(b) makes it unlawful to acquire or maintain an interest in or control of an enterprise through a pattern of racketeering activity. [United States v. Joseph, CR 17-02483 KG/JHR \(D. N.M. Apr 11, 2022\)](#) ("Section 1962(b) makes it unlawful to acquire or maintain an interest in an enterprise through a pattern of racketeering activity.").

As quoted in [Tal v. Hogan, 453 F.3d 1244 \(10th Cir. 2006\)](#), § 1962(b) makes it illegal 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... interstate... commerce."

To establish a violation of § 1962(b), a plaintiff must prove:

1. The existence of an enterprise;
2. The enterprise engaged in or affected interstate or foreign commerce;
3. The defendant acquired or maintained, directly or indirectly, an interest in or control of the enterprise; and
4. The defendant acquired or maintained this interest through a pattern of racketeering activity or collection of an unlawful debt.

Section 1962(b) is noted to be "the least used of the four RICO subsections" according to secondary material. RICO: A Primer (2022-01-31). Courts have held that "a plaintiff must allege a specific nexus between control of the named enterprise and the alleged racketeering activity" to succeed on a § 1962(b) claim. Id.

Subsection (c): Conducting Enterprise Affairs Through Racketeering

Section 1962(c) makes it unlawful for a person employed by or associated with an enterprise to conduct the enterprise's affairs through a pattern of racketeering activity. [United States v. Joseph, CR 17-02483 KG/JHR \(D. N.M. Apr 11, 2022\)](#) ("Section 1962(c) makes it unlawful for a person employed by or associated with an enterprise to conduct the enterprise's affairs through a pattern of racketeering activity.").

The full text of the provision, as quoted in [Farlow v. Peat Marwick Mitchell & Co., 666 F. Supp. 1500 \(W.D. Okla. 1987\)](#), 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."

To establish a violation of § 1962(c), a plaintiff must prove:

1. The existence of an enterprise;

2. The enterprise engaged in or affected interstate or foreign commerce;
3. The defendant was employed by or associated with the enterprise;
4. The defendant conducted or participated, directly or indirectly, in the conduct of the affairs of the enterprise; and
5. The defendant participated in the affairs of the enterprise through a pattern of racketeering activity or collection of unlawful debt.

Section 1962(c) is "far and away, the most often used and important substantive RICO provision." RICO: A Primer (2022-01-31). The Supreme Court has clarified that to "conduct or participate" in the affairs of an enterprise requires some part in directing the enterprise's affairs, not merely having some association with the enterprise. This is often referred to as the "operation or management" test.

In [Civil Rico: A Tool of Advocacy](#) (2024-01-01), it is noted that "A violation of § 1962(c)... 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."

Subsection (d): Conspiracy to Violate RICO

Section 1962(d) makes it unlawful to conspire to violate any of the other three substantive RICO provisions. [United States v. Joseph, CR 17-02483 KG/JHR \(D. N.M. Apr 11, 2022\)](#) ("§ 1962(d) makes it unlawful to conspire to violate any of the other three prohibitions.").

As quoted in [Farlow v. Peat Marwick Mitchell & Co., 666 F. Supp. 1500 \(W.D. Okla. 1987\)](#), § 1962(d) states that "it shall be unlawful for any person to conspire to violate any of the provisions of subsections (a), (b), or (c) of this section."

To establish a violation of § 1962(d), a plaintiff must prove:

1. The existence of an enterprise (or that an enterprise would exist);
2. The enterprise was (or would be) engaged in or affected interstate or foreign commerce; and
3. That each defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. § 1962(a), (b), or (c).

Importantly, the Supreme Court has held that "to establish a RICO conspiracy offense under Section 1962(d), there is no requirement that the defendant 'himself committed or agreed to commit the two predicate acts requisite for a substantive RICO offense under § 1962(c).' " RICO: A Primer (2022-01-31). This means that a defendant can be liable for a RICO conspiracy even without having personally committed or agreed to commit the predicate acts of racketeering.

Key Differences Between the Subsections

Different Prohibited Activities

The fundamental difference between subsections (a), (b), (c), and (d) lies in the specific activities they prohibit:

1. **Subsection (a)** targets the investment of proceeds from racketeering activity. It focuses on what happens to the money or benefits obtained from racketeering after the fact - specifically, its investment in an enterprise. [Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#) (2022-02-03) ("Section 1962(a) prohibits a person from investing in an enterprise any income derived from a pattern of racketeering activity.").
2. **Subsection (b)** targets the acquisition or control of an enterprise through racketeering. It focuses on how a defendant gains or maintains power over an enterprise. [Saine v. AIA, INC., 582 F.Supp. 1299 \(D. Colo. 1984\)](#) ("Section 1962(b) prohibits the operation of or acquisition of an interest in an enterprise through a pattern of racketeering activity.").
3. **Subsection (c)** targets the operation of an enterprise through racketeering. It focuses on how the affairs of an enterprise are conducted. [Joseph v. U.S. Pub. Defenders Office](#) (D. N.M. Nov 9, 2021) ("[It is unlawful] for a person employed by or associated with an enterprise, to conduct the enterprise's affairs through a pattern of racketeering activity.").
4. **Subsection (d)** targets conspiracy to commit any of the above violations. It extends liability to those who agree to participate in any of the substantive RICO violations, even if they did not personally commit predicate acts. [Saine v. AIA, INC., 582 F.Supp. 1299 \(D. Colo. 1984\)](#) ("Section 1962(d) states that it is forbidden to conspire to violate any of the substantive provisions of section 1962.").

Different Relationships to the Enterprise

Each subsection requires a different relationship between the defendant and the enterprise:

1. Under **subsection (a)**, the defendant need not be associated with the enterprise prior to investing the racketeering proceeds. The violation occurs when the defendant invests those proceeds in the enterprise.
2. Under **subsection (b)**, the defendant acquires or maintains interest in or control over the enterprise through racketeering activity. The enterprise is essentially the target of the racketeering.
3. Under **subsection (c)**, the defendant must be "employed by or associated with" the enterprise and conduct its affairs through racketeering. Here, the enterprise is the vehicle through which racketeering occurs.

4. Under **subsection (d)**, the defendant need only conspire to create the necessary relationship with an enterprise required by subsections (a), (b), or (c).

Different Injury Requirements

The subsections also differ in the type of injury that must be alleged in civil RICO claims:

1. For **subsection (a)**, plaintiffs must allege injury specifically from the investment or use of racketeering proceeds, not just from the predicate acts. [Zibalstar, L.C. v. Conte, Case No. 2:17-CV-563 \(D. Utah Mar 27, 2018\)](#) ("a plaintiff 'must plead facts tending to show that he was injured by the use or investment of racketeering income. Injury from the racketeering acts themselves is not sufficient because section 1962(a) does not prohibit those acts.'").
2. For **subsection (b)**, plaintiffs must typically show injury from the acquisition or maintenance of an interest in the enterprise, not merely from the predicate acts.
3. For **subsection (c)**, plaintiffs must show injury resulting from the conduct of an enterprise's affairs through a pattern of racketeering activity.
4. For **subsection (d)**, plaintiffs must show injury from the conspiracy to violate subsections (a), (b), or (c).

Different Prevalence in Practice

The subsections vary significantly in how frequently they are invoked in practice:

1. **Subsection (c)** is by far the most commonly used provision. RICO: A Primer (2022-01-31) ("Subsection (c) is, far and away, the most often used and important substantive RICO provision."); [Defending Civil RICO Claims: A Defense Plan Should Be In Every Business's Arsenal](#) (2022-02-03) ("claims under Section 1962(c) are the most commonly asserted").
2. **Subsection (b)** is the least used provision. RICO: A Primer (2022-01-31) ("Section 1962(b) is the least used of the four RICO subsections.").
3. **Subsection (a)** and **subsection (d)** fall somewhere in between, with the conspiracy provision (d) typically being used in conjunction with claims under the other subsections.

Application in the Tenth Circuit

The Tenth Circuit has addressed these RICO provisions in various cases, applying the general principles outlined above. For example, in [Tal v. Hogan](#),

[453 F.3d 1244 \(10th Cir. 2006\)](#), the court addressed claims brought under § 1962(b), (c), and (d), articulating the elements necessary to prove each type of violation.

The Tenth Circuit decisions consistently recognize that "the elements of a civil RICO claim are (1) investment in, control of, or conduct of (2) an enterprise (3) through a pattern (4) of racketeering activity." [Tal v. Hogan](#), [453 F.3d 1244 \(10th Cir. 2006\)](#). However, the precise demonstration of these elements differs based on which subsection is alleged to have been violated.

Courts in the Tenth Circuit have also recognized that these provisions are not mutually exclusive, and in many cases, plaintiffs bring claims under multiple subsections. In [Plains Resources, Inc. v. Gable](#), [782 F.2d 883 \(10th Cir. 1986\)](#), the court assessed claims under Colorado's state RICO analog, which contains provisions similar to the federal RICO statute, demonstrating the influence and parallel development of RICO jurisprudence across federal and state contexts within the Tenth Circuit.

Distinguishing Factors in Venue and Jurisdiction

In addition to the substantive differences between the RICO subsections, there may be procedural distinctions as well. In [100 Mount Holly Bypass v. Axos Bank](#), Case No. 2:20-CV-856-TS-CMR (D. Utah Jul 27, 2021), the court noted that "Section (a) concerns venue, allowing an action to 'be brought in a district court where personal jurisdiction based on minimum contacts is established as to at least one defendant.' Section (b) then authorizes nationwide jurisdiction over other defendants in that district when 'the ends of justice require' it."

While this refers to a different section of the RICO statute than § 1962, it highlights the complex procedural aspects that accompany RICO litigation and may differ based on the substantive claims brought under the various subsections of § 1962.

Exceptions and Caveats

While the four subsections of RICO create distinct causes of action, several important exceptions and caveats should be noted:

1. **Overlap in Practice:** In practice, there can be considerable overlap between these provisions, particularly in complex cases where defendants are alleged to have engaged in multiple types of prohibited conduct.
2. **Heightened Pleading Requirements:** RICO claims based on fraud predicates must satisfy the heightened pleading requirements of Federal Rule of Civil Procedure 9(b). [Civil Rico: A Tool of Advocacy](#) (2024-01-01) ("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.").

3. **Interstate Commerce Requirement:** All subsections require that the enterprise be engaged in or affect interstate commerce, but the threshold for meeting this requirement is relatively low. [Civil Rico: A Tool of Advocacy](#) (2024-01-01) ("RICO requires no more than a slight effect upon interstate commerce.").
4. **Conspiracy Liability Without Predicate Acts:** A defendant can be liable for a RICO conspiracy under § 1962(d) without personally committing or agreeing to commit predicate acts, as long as they knowingly agree that someone would commit the substantive RICO violation. [RICO: A Primer](#) (2022-01-31).

Conclusion

The four subsections of the RICO statute, 18 U.S.C. § 1962(a)-(d), present distinct but related prohibitions against different aspects of racketeering activity in connection with enterprises engaged in or affecting interstate commerce. In the Tenth Circuit, as elsewhere, these provisions have been interpreted to require different elements of proof and to address different forms of conduct.

Section 1962(a) focuses on the investment of racketeering proceeds in an enterprise and requires a showing of injury from this investment, not just from the predicate acts themselves. Section 1962(b), the least commonly used provision, prohibits acquiring or maintaining an interest in or control over an enterprise through racketeering activity. Section 1962(c), the most frequently invoked subsection, makes it unlawful for a person associated with an enterprise to conduct its affairs through a pattern of racketeering activity. Finally, Section 1962(d) extends liability to those who conspire to violate any of the substantive RICO provisions, even without personally committing predicate acts.

Understanding these distinctions is crucial for both plaintiffs and defendants in RICO litigation within the Tenth Circuit, as they determine the specific elements that must be proven or defended against, the nature of the injury that must be alleged, and the relationship that must exist between the defendant, the racketeering activity, and the enterprise.

Legal Authorities

[Tal v. Hogan, 453 F.3d 1244 \(10th Cir. 2006\)](#)

U.S. Court of Appeals — Tenth Circuit

Extract

As stated previously, Tal, Inc. and Bricktown, Inc. brought RICO claims against the Developers under 18 U.S.C. § 1962(b), against Douglas under 18 U.S.C. § 1962(c) and against the Developers and Douglas under 18 U.S.C. § 1962(d). The elements of a civil RICO claim are (1) investment in, control of, or conduct of (2) an enterprise (3) through a pattern (4) of racketeering

activity. 18 U.S.C. § 1962(a), (b), & (c). ... 18 U.S.C. § 1962(b) makes it illegal 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... interstate. ... commerce.' ... 18 U.S.C. § 1962(c) makes it illegal '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(d) makes it illegal 'for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.'

Summary

Detailed explanation of the differences between subsections (b), (c), and (d) of the RICO statute. Subsection (b) focuses on acquiring or maintaining an interest in an enterprise through racketeering, subsection (c) addresses conducting an enterprise's affairs through racketeering, and subsection (d) involves conspiring to violate the other subsections. This information is directly relevant to understanding the distinctions between these subsections in the context of the Tenth Circuit.

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

U.S. Court of Appeals — Tenth Circuit

Extract

COCCA allows '[a]ny person injured by reason of any violation of Section 18-17-104, which sets forth prohibited activities, to sue for 'threefold the actual damages sustained,' attorney's fees, and costs. Sec. 18-17-106(7), 8 C.R.S. (1985 Supp.). The prohibited activities include investment of proceeds 'derived, directly or indirectly, from a pattern of racketeering activity' in real property or 'any enterprise,' Sec. 18-17-104(1)(a), acquisition or maintenance of an interest in any enterprise 'through a pattern of racketeering activity' id, Sec. 18-17-104(2), conducting an enterprise's activities through such a pattern, id, Sec. 18-17-104(3), and 'conspir[ing] or endeavor[ing] to violate any of the provisions ... of this section.' Id., Sec. 18-17-104(4).

Summary

Breakdown of the prohibited activities under COCCA, which are analogous to the RICO statute. It outlines the activities covered under subsections (a) through (d) of Section 18-17-104, which correspond to the RICO statute's subsections (a) through (d) in 18 U.S.C. Sec. 1962. These include investment of racketeering proceeds, acquisition or maintenance of an interest in an enterprise through racketeering, conducting an enterprise's activities through racketeering, and conspiracy to violate these provisions.

[Jacobo-Rosas v. United States Attorney, CV 21-0789 KG/GBW \(D. N.M. Mar 02, 2022\)](#)

U.S. District Court — District of New Mexico

Extract

RICO's § 1962 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.' First, Section 1962(a) makes it unlawful to invest income derived from a pattern of racketeering activity in an enterprise. Second, Section 1962(b) makes it unlawful to acquire or maintain an interest in an enterprise through a pattern of racketeering activity. Third, Section 1962(c) makes it unlawful for a person employed by or associated with an enterprise to conduct the enterprise's affairs through a pattern of racketeering activity. Last, § 1962(d) makes it unlawful to conspire to violate any of the other three prohibitions.

Summary

Clear explanation of the four subsections of § 1962 of the RICO statute. Each subsection addresses a different aspect of unlawful activity related to racketeering: (a) investing income from racketeering, (b) acquiring or maintaining an interest in an enterprise through racketeering, (c) conducting an enterprise's affairs through racketeering, and (d) conspiring to violate any of the other subsections. This explanation is applicable to the Tenth Circuit as it is a federal statute.

[United States v. Joseph, CR 17-02483 KG/JHR \(D. N.M. Apr 11, 2022\)](#)

U.S. District Court — District of New Mexico

Extract

RICO's § 1962 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." First, Section 1962(a) makes it unlawful to invest income derived from a pattern of racketeering activity in an enterprise. Second, Section 1962(b) makes it unlawful to acquire or maintain an interest in an enterprise through a pattern of racketeering activity. Third, Section 1962(c) makes it unlawful for a person employed by or associated with an enterprise to conduct the enterprise's affairs through a pattern of racketeering activity. Last, § 1962(d) makes it unlawful to conspire to violate any of the other three prohibitions.

Summary

Specific prohibitions under § 1962 of the RICO statute, which are relevant to understanding the differences between subsections (a), (b), (c), and (d). Each subsection addresses a different aspect of unlawful activity related to racketeering: investing income, acquiring or maintaining interest, conducting affairs, and conspiring to violate the other prohibitions. This information is generally applicable to cases involving RICO violations in the 10th Circuit.

[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. Specifically, it is unlawful to: invest income derived from a pattern of racketeering activity in an enterprise (§ 1962(a)); acquire or maintain an interest in an enterprise through a pattern of racketeering activity (§ 1962(b)); for a person employed by or associated with an enterprise, to conduct the enterprise's affairs through a pattern of racketeering activity (§ 1962(c)); and to conspire to violate any of the other three prohibitions (§ 1962(d)).

Summary

The passage clearly outlines the specific prohibitions under the RICO statute, detailing the unlawful activities described in subsections (a), (b), (c), and (d). This information is directly relevant to understanding the differences between these subsections in the context of the 10th Circuit.

[Saine v. AIA, INC., 582 F.Supp. 1299 \(D. Colo. 1984\)](#)

U.S. District Court — District of Colorado

Extract

18 U.S.C. § 1964(c). Section 1962(a) makes it unlawful to invest funds derived from a pattern of racketeering activity in an enterprise engaged in interstate commerce. Section 1962(b) prohibits the operation of or acquisition of an interest in an enterprise through a pattern of racketeering activity. Section 1962(c) makes it unlawful for any person associated with an enterprise which affects interstate commerce to conduct or participate in the affairs of such enterprise through a pattern of racketeering activity.

Section 1962(d) states that it is forbidden to conspire to violate any of the substantive provisions of section 1962.

Summary

The passage clearly outlines the prohibitions under each subsection of 18 U.S.C. § 1962. Subsection (a) addresses the investment of racketeering-derived funds, subsection (b) concerns the acquisition or control of an enterprise through racketeering, subsection (c) involves conducting an enterprise's affairs through racketeering, and subsection (d) pertains to conspiracies to violate the other subsections. This information is directly relevant to understanding the differences between these subsections.

[Zibalstar, L.C. v. Conte, Case No. 2:17-CV-563 \(D. Utah Mar 27, 2018\)](#)

U.S. District Court — District of Utah

Extract

Consequently, to state a claim under § 1962(a), a plaintiff 'must plead facts tending to show that he was injured by the use or investment of racketeering income. Injury from the racketeering acts themselves is not sufficient because section 1962(a) does not prohibit those acts.' ... Section 1962(b) makes it unlawful for any person 'through a pattern of racketeering activity. .. 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.' ... Section 1962(c) makes it '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.'

Summary

Detailed explanation of the requirements and prohibitions under subsections (a), (b), and (c) of the RICO statute. It clarifies that subsection (a) requires injury from the use or investment of racketeering income, subsection (b) prohibits acquiring or maintaining interest in an enterprise through racketeering, and subsection (c) prohibits conducting an enterprise's affairs through racketeering. The passage does not mention subsection (d).

[Farlow v. Peat Marwick Mitchell & Co., 666 F. Supp. 1500 \(W.D. Okla. 1987\)](#)

U.S. District Court — Western District of Oklahoma

Extract

In relevant part, Section 1962(a) provides: (a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt ... to use or invest, directly or indirectly, any part of such income in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.... 18 U.S.C. § 1962(a). Section 1962(c) provides as follows: (c) 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 or collection of unlawful debt. 18 U.S.C. § 1962(c). Section 1962(d) states that 'it shall be unlawful for any person to conspire to violate any of the provisions of subsections (a), (b), or (c) of this section.' 18 U.S.C. § 1962(d).

Summary

Direct explanation of subsections (a), (c), and (d) of the RICO statute, detailing the unlawful activities each subsection addresses. Section 1962(a) focuses on the use or investment of income derived from racketeering, Section 1962(c) addresses the conduct or participation in an enterprise's affairs through racketeering, and Section 1962(d) pertains to conspiracy to violate the other subsections. The passage does not mention subsection (b), so it does not provide a complete answer to the question.

[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 (a) concerns venue, allowing an action to 'be brought in a district court where personal jurisdiction based on minimum contacts is established as to at least one defendant.' Section (b) then authorizes nationwide jurisdiction over other defendants in that district when 'the ends of justice require' it. The 'ends of justice' has no precise definition; it is 'a flexible concept uniquely tailored to the facts of each case' and must be analyzed in light of RICO's purpose of eradicating organized crime. ... To prove a RICO conspiracy under § 1962(d), "it suffices that [a defendant] adopt the goal of furthering or facilitating the criminal endeavor,' so long as that endeavor would, 'if completed,. . . satisfy all the elements of a substantive criminal offense.'

Summary

The passage provides specific information about subsections (a), (b), and (d) of the RICO statute. Section (a) deals with venue requirements, allowing actions to be brought in a district court where personal jurisdiction is established. Section (b) extends jurisdiction to other defendants when necessary for justice. Section (d) pertains to conspiracy, requiring only the adoption of a criminal endeavor's goal. The passage does not provide information about subsection (c).

[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. The practitioner through their pleadings must articulate with great care and attention a viable racketeering claim. In addition, § 1962(a), (b), and (c) are limited in scope to conduct involving enterprises engaged in or the activities of which affect interstate commerce. It is the activities of the enterprise, not each predicate act, that must affect interstate or foreign commerce. RICO requires no more than a slight effect upon interstate commerce.

Summary

The passage provides insight into the requirements for a RICO claim under § 1962(c), emphasizing the need for conduct of an enterprise through a pattern of racketeering activity. It also notes that § 1962(a), (b), and (c) are limited to conduct involving enterprises affecting interstate commerce. This suggests that while § 1962(c) is focused on the conduct of an enterprise through racketeering, § 1962(a) and (b) may address different aspects of enterprise involvement in racketeering, though the passage does not specify these differences. The passage does not mention § 1962(d).

[RICO: A Primer](#)

Extract

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. Each of the subsections incorporates the basic elements of 'enterprise' and a 'pattern of racketeering activity.' Section 1962(a) Under Section 1962(a), it is violation to invest the proceeds of racketeering activity in an enterprise that affects interstate commerce. ... Section 1962(b) is the least used of the four RICO subsections. Under section 1962(b), it is a violation to acquire or maintain an interest in an enterprise affecting interstate or foreign commerce through a pattern of racketeering activity or collection of an unlawful debt. To prove a violation of Section 1962(b), a plaintiff must prove the following elements: * Existence of an enterprise; * The enterprise engaged in, or its activities affected, interstate or foreign commerce; * The defendant acquired or maintained, directly or indirectly, an interest in or control of the enterprise; and * The defendant acquired or maintained the interest through a pattern of racketeering activity or through collection of an unlawful debt. Courts have held that a plaintiff must allege a specific nexus between control of the named enterprise and the alleged racketeering activity. Section 1962(c) Subsection (c) is, far and away, the most often used and important substantive RICO provision. Under section 1962(c), it is a violation to conduct the affairs of an enterprise affecting interstate or foreign commerce 'through' a pattern of racketeering activity or through the alternative theory of collection of an unlawful debt. To prove a violation of Section 1962(c), a plaintiff must prove the following elements: * Existence of an enterprise; * The enterprise engaged in, or its activities affected, interstate or foreign commerce; * The defendant was employed by or was associated with the enterprise; * The defendant conducted or participated, either directly or indirectly, in the conduct of the affairs of the enterprise; and * The defendant participated in the affairs of the enterprise through a pattern of racketeering activity or collection of unlawful debt. Section 1962(d) Under Section 1962(d), it is a violation to conspire to commit any of the three substantive RICO offenses. To prove a violation of Section 1962(d), a plaintiff must prove the following elements: * The existence of an enterprise (or that an enterprise would exist); * That the enterprise was (or would be) engaged in, or its activities affected (or would affect), interstate or foreign commerce; and * That each defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. ' 1962(c). The Supreme Court held that to establish a RICO conspiracy offense under Section 1962(d), there is no requirement that the defendant 'himself committed or agreed to commit the two predicate acts requisite for a substantive RICO offense under ' 1962(c).

Summary

Detailed explanation of the four subsections of section 1962 of the RICO statute. Each subsection addresses a different aspect of racketeering activity: (a) involves investing racketeering proceeds in an enterprise; (b) involves acquiring or maintaining control of an enterprise through racketeering; (c) involves conducting the affairs of an enterprise through racketeering; and (d) involves conspiring to commit any of the aforementioned activities. The passage also outlines the elements required to prove violations under each subsection, highlighting the distinct nature of each.

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

Extract

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

Clear breakdown of the four subsections of the RICO statute, explaining the specific prohibitions under each subsection. Section 1962(a) deals with the investment of income from racketeering, Section 1962(b) with acquiring or maintaining control over an enterprise through racketeering, Section 1962(c) with conducting an enterprise's affairs through racketeering, and Section 1962(d) with conspiring to violate the other subsections. This information is generally applicable and not limited to the Tenth Circuit specifically.

[RICO: A Primer](#)

Extract

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. Each of the subsections incorporates the basic elements of 'enterprise' and a 'pattern of racketeering activity.' Section 1962(a) ... Section 1962(b) is the least used of the four RICO subsections. Under section 1962(b), it is a violation to acquire or maintain an interest in an enterprise affecting interstate or foreign commerce through a pattern of racketeering activity or collection of an unlawful debt. To prove a violation of Section 1962(b), a plaintiff must prove the following elements: * Existence of an enterprise; * The enterprise engaged in, or its activities affected, interstate or foreign commerce; * The defendant acquired or maintained, directly or indirectly, an interest in or control of the enterprise; and * The defendant acquired or maintained the interest through a pattern of racketeering activity or through collection of an unlawful debt. Courts have held that a plaintiff must allege a specific nexus between control of the named enterprise and the alleged racketeering activity. Section 1962(c)

Subsection (c) is, far and away, the most often used and important substantive RICO provision. Under section 1962(c), it is a violation to conduct the affairs of an enterprise affecting interstate or foreign commerce 'through' a pattern of racketeering activity or through the alternative theory of collection of an unlawful debt. To prove a violation of Section 1962(c), a plaintiff must prove the following elements: * Existence of an enterprise; * The enterprise engaged in, or its activities affected, interstate or foreign commerce; * The defendant was employed by or was associated with the enterprise; * The defendant conducted or participated, either directly or indirectly, in the conduct of the affairs of the enterprise; and * The defendant participated in the affairs of the enterprise through a pattern of racketeering activity or collection of unlawful debt. Section 1962(d) Under Section 1962(d), it is a violation to conspire to commit any of the three substantive RICO offenses. To prove a violation of Section 1962(d), a plaintiff must prove the following elements: * The existence of an enterprise (or that an enterprise would exist); * That the enterprise was (or would be) engaged in, or its activities affected (or would affect), interstate or foreign commerce; and * That each defendant knowingly agreed that a conspirator would commit a violation of 18 U.S.C. § 1962(c). The Supreme Court held that to establish a RICO conspiracy offense under Section 1962(d), there is no requirement that the defendant 'himself committed or agreed to commit the two predicate acts requisite for a substantive RICO offense under § 1962(c).

Summary

Detailed explanation of the four subsections of the RICO statute, section 1962. Each subsection addresses a different aspect of racketeering activity: (a) involves acquiring or operating an enterprise with racketeering proceeds; (b) involves controlling an enterprise through racketeering activities; (c) involves conducting the affairs of an enterprise through racketeering activities; and (d) involves conspiring to commit any of the aforementioned activities. The passage also outlines the elements required to prove violations under each subsection, highlighting the differences in their application.

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

Extract

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

The passage clearly outlines the differences between the four subsections of the RICO statute, explaining the specific prohibitions under each subsection. This information is applicable to understanding the RICO statute in any jurisdiction, including 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](#)