

Question

- The mother's attorney prepared the fraudulent agreement and participated in the scheme to deprive the father of property and business. - The attorney attempted to add child support payments to the agreement, which the father claims is an unlawful debt. - The attorney acted in concert with the mother, the Oklahoma individual, and court officials. - Attorneys can be liable under RICO if they participate in the conduct of an enterprise's affairs through a pattern of racketeering activity (18 U.S.C. § 1962(c); *Handeen v. Lemaire*, 112 F.3d 1339 (8th Cir. 1997)). - Preparing and submitting fraudulent documents, and attempting to secure execution of documents by deception, are predicate acts under RICO and Texas law (18 U.S.C. §§ 1341, 1343; Tex. Pen. Code § 32.46). - Attempting to collect an unlawful debt is a predicate act under RICO (18 U.S.C. § 1961(6)). - The attorney's preparation and submission of fraudulent documents, and attempt to collect child support as an unlawful debt, constitute predicate acts under RICO. - Acting in concert with other participants to further the scheme satisfies the enterprise requirement. - Therefore, the attorney is potentially liable under RICO for participating in the conduct of the enterprise's affairs through a pattern of racketeering activity.

Answer (Fifth Circuit)

Short response

An attorney who prepares and submits fraudulent documents and participates in a scheme to deprive another of property, including by attempting to collect an unlawful debt, may be liable under RICO if these actions constitute a pattern of racketeering activity conducted through an enterprise. The provided authorities support the proposition that attorneys are not immune from RICO liability and that such conduct can satisfy the statutory requirements for a civil RICO claim.

Summary

The [Racketeer Influenced and Corrupt Organizations Act](#) (RICO) imposes liability on any person, including attorneys, who participate in the conduct of an enterprise's affairs through a pattern of racketeering activity or the collection of unlawful debt. The authorities confirm that predicate acts such as mail and wire fraud, as well as the collection of unlawful debts, can form the basis of a RICO claim, and that attorneys may be liable if they are found to have participated in such conduct as part of an enterprise.

In the scenario described, if the attorney's actions—preparing fraudulent agreements, attempting to collect what is alleged to be an unlawful debt, and acting in concert with others—are proven to constitute a pattern of racketeering activity, then RICO liability is possible. The law does not exempt attorneys from RICO, and the elements of enterprise, pattern, and

predicate acts are all potentially satisfied on the facts as alleged, subject to proof and the specific characterization of the child support obligation as an "unlawful debt" under RICO.

Background and Relevant Law

Legislative Framework

The core statutory provision is 18 U.S.C. § 1962(c), which 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 or collection of unlawful debt. The statute defines "racketeering activity" to include a range of federal and state offenses, notably including mail fraud (18 U.S.C. § 1341) and wire fraud (18 U.S.C. § 1343), as well as the collection of "unlawful debt" (18 U.S.C. § 1961(6)).

To establish a civil RICO claim under § 1962(c), a plaintiff must show: (1) conduct, (2) of an enterprise, (3) through a pattern, (4) of racketeering activity, and (5) injury to business or property by reason of the RICO violation, as confirmed in multiple authorities including [State Farm Mut. Auto. Ins. Co. v. Misra, 658 F.Supp.3d 362 \(W.D. Tex. 2023\)](#) and [George v. Blue Diamond Petroleum, Inc., 718 F.Supp. 539 \(W.D. La. 1989\)](#).

Case Law

The courts have consistently held that attorneys can be liable under RICO if they participate in the conduct of an enterprise's affairs through a pattern of racketeering activity. The Supreme Court in *Reves v. Ernst & Young* clarified that professionals, including lawyers, are not exempt from RICO liability if they participate in the management or operation of the enterprise ([Racketeer influenced and corrupt organizations.](#) (2011-03-22); [Racketeer influenced and corrupt organizations.](#) (2010-03-22)). The Fifth Circuit and district courts within Texas have repeatedly articulated the elements of a RICO claim and the inclusion of attorneys as potential defendants ([U.S. v. Cauble, 706 F.2d 1322 \(5th Cir. 1983\)](#); [U.S. v. Bright, 630 F.2d 804 \(5th Cir. 1980\)](#); [Heden v. Hill, 937 F.Supp. 1230 \(S.D. Tex. 1996\)](#)).

Predicate acts under RICO include mail and wire fraud, which require a scheme to defraud, use of the mails or wires, and intent to deceive ([Heden v. Hill, 937 F.Supp. 1230 \(S.D. Tex. 1996\)](#)). The collection of unlawful debt is also a predicate act, and RICO liability can be based solely on such collection ([Racketeer influenced and corrupt organizations.](#) (1998-03-22)).

The enterprise requirement is broadly construed and can include any group of individuals associated in fact for a common purpose ([Racketeer Influenced and Corrupt Organizations](#) (2022-07-01); [U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)). Even peripheral participants, such as attorneys who are not central to the enterprise but who knowingly further its aims, may be liable ([U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)).

Analysis

1. Attorney Liability under RICO

The authorities make clear that attorneys are not immune from RICO liability. The Supreme Court's decision in *Reves v. Ernst & Young*, as discussed in the secondary materials, confirms that professionals, including lawyers, can be liable if they participate in the management or operation of an enterprise's affairs through a pattern of racketeering activity ([Racketeer influenced and corrupt organizations.](#) (2011-03-22); [Racketeer influenced and corrupt organizations.](#) (2010-03-22); [Racketeer influenced and corrupt organizations.](#) (2005-03-22)). The Fifth Circuit has similarly held that RICO's reach extends to both insiders and outsiders who are associated with an enterprise and participate in its affairs through racketeering activity ([U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)).

The secondary materials specifically reference *Handeen v. Lemaire*, 112 F.3d 1339 (8th Cir. 1997), where attorneys who advised a debtor to misrepresent expenses were found to have participated in a RICO enterprise ([RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS](#) (2021-07-01)). This supports the proposition that attorneys who actively participate in fraudulent schemes can be liable under RICO.

2. Predicate Acts: Fraudulent Documents and Unlawful Debt

RICO defines "racketeering activity" to include acts indictable under federal statutes such as mail fraud (18 U.S.C. § 1341) and wire fraud (18 U.S.C. § 1343) ([Allstate Ins. Co. v. Benhamou, 190 F.Supp.3d 631 \(S.D. Tex. 2016\)](#); [Heden v. Hill, 937 F.Supp. 1230 \(S.D. Tex. 1996\)](#)); RICO: A Primer (2022-01-31)). Preparing and submitting fraudulent documents, or attempting to secure execution of documents by deception, can constitute mail or wire fraud if the mails or wires are used in furtherance of the scheme and there is intent to defraud. The authorities confirm that a criminal conviction is not required for these acts to serve as predicate acts in a civil RICO claim ([Heden v. Hill, 937 F.Supp. 1230 \(S.D. Tex. 1996\)](#)).

Additionally, the collection of "unlawful debt" is a separate predicate act under RICO ([Racketeer influenced and corrupt organizations.](#) (1998-03-22); [Racketeer influenced and corrupt organizations.](#) (2005-03-22)). The statute defines "unlawful debt" in 18 U.S.C. § 1961(6), and courts have recognized that a pattern of collecting unlawful debt alone can support RICO liability ([Racketeer influenced and corrupt organizations.](#) (1998-03-22)). However, whether a child support obligation can be characterized as an "unlawful debt" under RICO is a fact-intensive and legally complex question, as RICO's definition of "unlawful debt" is generally aimed at debts incurred in illegal gambling or usurious lending. The authorities provided do not directly address whether child support, even if fraudulently imposed, qualifies as an "unlawful debt" under RICO, so this aspect would require further legal analysis and likely judicial determination.

3. Pattern and Enterprise Requirements

To establish a RICO claim, there must be a "pattern" of racketeering activity, which requires at least two related predicate acts that amount to or pose a threat of continued criminal activity ([George v. Blue Diamond Petroleum, Inc., 718 F.Supp. 539 \(W.D. La. 1989\)](#)). The acts must be related and demonstrate continuity. If the attorney's conduct involved multiple fraudulent acts or attempts to collect unlawful debts as part of an ongoing scheme, this could satisfy the pattern requirement.

The "enterprise" requirement is broadly construed. An enterprise can be any group of individuals associated in fact for a common purpose, and need not have a formal structure or economic motive ([Racketeer Influenced and Corrupt Organizations](#) (2022-07-01)). The authorities confirm that acting in concert with others, such as the mother, the Oklahoma individual, and court officials, can satisfy the enterprise element if the group is associated for the purpose of carrying out the alleged scheme ([U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)).

4. Application to the Scenario

Applying these principles, if the attorney prepared and submitted fraudulent documents as part of a scheme to deprive the father of property or business, and if these acts involved the use of mail or wire communications with intent to defraud, they could constitute predicate acts of mail or wire fraud under RICO. If the attorney also attempted to collect child support payments that are alleged to be an "unlawful debt," and if such collection meets the statutory definition, this could serve as an additional predicate act.

If these acts were not isolated but part of a broader scheme involving multiple participants acting in concert, the enterprise and pattern requirements could be satisfied. The authorities confirm that even peripheral participants, such as attorneys who knowingly further the enterprise's aims, may be liable under RICO ([U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)).

5. Civil Remedies

RICO provides for a civil cause of action for any person injured in their business or property by reason of a RICO violation, including treble damages ([State Farm Mut. Auto. Ins. Co. v. Misra, 658 F.Supp.3d 362 \(W.D. Tex. 2023\)](#)). Thus, if the father can establish the elements of a RICO claim, he may seek civil remedies against the attorney and other participants.

Exceptions and Caveats

A key caveat is the characterization of the child support obligation as an "unlawful debt" under RICO. The authorities provided do not directly address whether child support, even if fraudulently imposed, qualifies as an "unlawful debt" within the meaning of 18 U.S.C. § 1961(6). RICO's definition of "unlawful debt" is generally aimed at debts arising from illegal gambling

or usurious lending, and courts have been reluctant to expand this definition to other types of obligations. Therefore, while the attempt to collect such a debt could be alleged as a predicate act, its success as a RICO predicate would depend on judicial interpretation.

Another important limitation is that RICO liability requires proof of intent and knowing participation in the scheme. Mere preparation of documents, without knowledge of or intent to further a fraudulent scheme, would not suffice. The facts must establish that the attorney knowingly participated in the conduct of the enterprise's affairs through a pattern of racketeering activity.

Finally, while the authorities confirm that attorneys can be liable under RICO, they also require that the attorney's actions rise to the level of participation in the management or operation of the enterprise, as clarified in *Reves v. Ernst & Young*. Peripheral or incidental involvement may not be sufficient unless it constitutes participation in the conduct of the enterprise's affairs.

Conclusion

In summary, the authorities provided support the proposition that an attorney who prepares and submits fraudulent documents and participates in a scheme to deprive another of property, including by attempting to collect an unlawful debt, may be liable under RICO if these actions constitute a pattern of racketeering activity conducted through an enterprise. Attorneys are not exempt from RICO liability, and predicate acts such as mail and wire fraud, as well as the collection of unlawful debts, can form the basis of a RICO claim. However, the specific characterization of child support as an "unlawful debt" under RICO is uncertain and would require further legal analysis. The ultimate determination of liability would depend on the specific facts and the ability to prove the elements of a RICO claim, including intent, pattern, enterprise, and injury.

Legal Authorities

[U.S. v. Cauble, 706 F.2d 1322 \(5th Cir. 1983\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

RICO criminalizes the conduct of an enterprise through a pattern of racketeering activity and not merely the defendant's engaging in racketeering activity. Therefore, there must be a nexus between the enterprise, the defendant, and the pattern of racketeering activity. ... A defendant does not 'conduct' or 'participate in the conduct' of a lawful enterprise's affairs, unless (1) the defendant has in fact committed the racketeering acts as alleged; (2) the defendant's position in the enterprise facilitated his commission of the racketeering acts, and (3) the predicate acts had some effect on the lawful enterprise.

Summary

Requirements for a defendant to be considered as conducting or participating in the conduct of an enterprise's affairs through racketeering activity. This includes committing the racketeering acts, having a position that facilitates these acts, and the acts affecting the enterprise. These elements align with the proposition that an attorney could be liable under RICO if they prepared fraudulent documents and attempted to collect an unlawful debt as part of a scheme.

[Allstate Ins. Co. v. Benhamou, 190 F.Supp.3d 631 \(S.D. Tex. 2016\)](#)

U.S. District Court — Southern District of Texas

Extract

RICO 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 or collection of unlawful debt.' Boyle v. United States, 556 U.S. 938, 943–45, 129 S.Ct. 2237, 173 L.Ed.2d 1265 (2009) (quoting 18 U.S.C. § 1962(c)) (internal quotation marks omitted). ... 'Pattern of racketeering activity' is a defined term and has two components. In re Burzynski, 989 F.2d 733, 742 (5th Cir.1993) ; 18 U.S.C. § 1961(5). First, there must be at least two predicate acts of 'racketeering activity.' Burzynski, 989 F.2d at 742. Second, there must be a pattern of such acts. Id. 'Racketeering activity,' is defined by reference to various state and federal offenses. Foufas, 867 F.2d at 880 ; 18 U.S.C. § 1961(1). One of the enumerated crimes is mail fraud. See 18 U.S.C. § 1961(1)(B) (defining any act indictable under 18 U.S.C. § 1341 —the mail fraud statute—as 'racketeering activity').

Summary

Requirements for establishing liability under RICO, specifically under 18 U.S.C. § 1962(c). It explains that a person can be liable if they conduct or participate in an enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt. The passage also defines "racketeering activity" to include acts like mail fraud, which are relevant to the proposition that the attorney's actions could constitute predicate acts under RICO. This supports the argument that the attorney's preparation and submission of fraudulent documents, and attempt to collect child support as an unlawful debt, could be considered racketeering activities.

[In re Mastercard Intern. Inc., Internet Gamb., 132 F.Supp.2d 468 \(E.D. La. 2001\)](#)

U.S. District Court — Eastern District of Louisiana

Extract

Pertinent to this case is § 1962(c) which provides that '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.' 18 U.S.C. § 1962(c). ... As stated above, section 1962(c) also makes it unlawful 'for any person through a pattern of racketeering activity or through a collection of unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.' 18 U.S.C. § 1962(c) (emphasis added).

Summary

The passage explains the application of 18 U.S.C. § 1962(c), which makes it unlawful for any person associated with an enterprise to conduct its affairs through a pattern of racketeering activity or collection of unlawful debt. This directly supports the proposition that an attorney could be liable under RICO if they participate in such activities. The passage also highlights that the collection of unlawful debt is an alternative means to trigger RICO liability, which aligns with the claim that attempting to collect child support as an unlawful debt could be a predicate act.

[U.S. v. Elliott, 571 F.2d 880 \(5th Cir. 1978\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

The substantive proscriptions of the RICO statute apply to insiders and outsiders those merely 'associated with' an enterprise who participate directly and indirectly in the enterprise's affairs through a pattern of racketeering activity. 18 U.S.C. § 1962(c). ... Thus, the RICO net is woven tightly to trap even the smallest fish, those peripherally involved with the enterprise. ... Direct evidence of agreement is unnecessary: 'proof of such an agreement may rest upon inferences drawn from relevant and competent circumstantial evidence ordinarily the acts and conduct of the alleged conspirators themselves'.

Summary

The passage from U.S. v. Elliott discusses the broad application of the RICO statute, emphasizing that it applies to both insiders and outsiders who are associated with an enterprise and participate in its affairs through a pattern of racketeering activity. It highlights that even peripheral involvement can lead to liability under RICO, and that direct evidence of an agreement is not necessary; circumstantial evidence can suffice. This supports the proposition

that an attorney, even if not a central figure, could be liable under RICO if they participated in the fraudulent scheme as part of an enterprise's affairs.

[George v. Blue Diamond Petroleum, Inc., 718 F.Supp. 539 \(W.D. La. 1989\)](#)

U.S. District Court — Western District of Louisiana

Extract

Plaintiffs' most substantial claims are made pursuant to RICO, 18 U.S.C. § 1962(c), which provides: It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities 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. ... For plaintiffs to prevail on their RICO claims, the parties agree that plaintiffs must show: (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity and (5) injury as a result of such conduct. ... The court found that RICO's legislative history reveals a Congressional intent to require a RICO plaintiff to prove (1) the racketeering predicates are related and (2) the acts amount to or pose a threat of continued criminal activity.

Summary

Elements required to establish a RICO violation, which includes conduct of an enterprise through a pattern of racketeering activity or collection of unlawful debt. It also emphasizes the need for related racketeering predicates and a threat of continued criminal activity. This supports the proposition that an attorney could be liable under RICO if they engage in such conduct, as alleged in the proposition.

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

U.S. District Court — Southern District of Texas

Extract

Under § 1961(1)(B), racketeering activity includes any act which is indictable under a number of federal criminal statutes, including mail fraud and wire fraud. Any act that does not fall within the purview of RICO's definition of predicate offenses is not an act of 'racketeering activity.' ... In this case, Heden alleges mail fraud and wire fraud as predicate acts supporting his civil RICO claims. See 18 U.S.C. §§ 1341, 1343. A criminal conviction of the defendants for mail or wire fraud is not a condition of urging these offenses as the basis for civil RICO claims. ... For mail fraud, it is necessary to show that (1) the defendants formed a scheme or artifice to defraud; (2) the defendants used the United States mails or caused a use of

the United States mails in furtherance of the scheme; and (3) the defendants did so with the specific intent to deceive or defraud.

Summary

The passage from *Heden v. Hill* outlines the requirements for establishing predicate acts under RICO, specifically mail and wire fraud. It explains that these acts are considered racketeering activities under RICO if they involve a scheme to defraud, use of mail or wire communications, and intent to deceive. This supports the proposition that the attorney's actions, if they involved fraudulent documents and attempts to collect unlawful debts, could be considered predicate acts under RICO. The passage also clarifies that a criminal conviction is not necessary to pursue a civil RICO claim, which aligns with the proposition that the attorney could be liable under RICO.

[State Farm Mut. Auto. Ins. Co. v. Misra, 658 F.Supp.3d 362 \(W.D. Tex. 2023\)](#)

U.S. District Court — Western District of Texas

Extract

The RICO statute makes it 'unlawful for any person employed by or associated with any enterprise engaged in, or the activities 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). 'Any person injured in his business or property by reason of a violation of section 1962' may bring a civil suit for treble damages. Id. § 1964(c). 'To state a claim under § 1962(c), a plaintiff must adequately plead that the defendant engaged in '(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.'

Summary

Elements required to establish a RICO claim under 18 U.S.C. § 1962(c), which includes demonstrating conduct of an enterprise through a pattern of racketeering activity. This directly supports the proposition that an attorney could be liable under RICO if they participate in such conduct. The passage also mentions that any person injured by a RICO violation can bring a civil suit for damages, which aligns with the proposition's claim of potential liability for the attorney.

[U.S. v. Bright, 630 F.2d 804 \(5th Cir. 1980\)](#)

U.S. Court of Appeals — Fifth Circuit

Extract

Section 1962(c) of Title 18 provides: 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. Thus, to prove a RICO violation, the government must prove (1) the existence of an enterprise; (2) that the defendant is 'associated with' the enterprise; (3) that the defendant participated in the conduct of the enterprise's affairs; and (4) that the participation was through a pattern of racketeering activity.

Summary

Elements necessary to establish a RICO violation, which includes the existence of an enterprise, association with the enterprise, participation in the enterprise's affairs, and a pattern of racketeering activity. This directly supports the proposition that an attorney could be liable under RICO if they participate in a scheme involving fraudulent agreements and unlawful debts, as these actions could constitute a pattern of racketeering activity.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Argust, Corey P. - 2010-03-22

Extract

Section 1962(c) prohibits persons employed by or associated with an enterprise from conducting or participating in the conduct or the affairs of that enterprise through a pattern of racketeering activity. A relationship between the pattern of racketeering activity and the enterprise is required. *Reves v. Ernst & Young*, the Supreme Court held that the requisite nexus exists only when the defendant participates in the management or operation of the enterprise. *Reves* does not preclude professionals, such as lawyers and accountants, from being subject to RICO liability.

Summary

Requirements for RICO liability under Section 1962(c), emphasizing that individuals, including professionals like lawyers, can be held liable if they participate in the management or operation of an enterprise through a pattern of racketeering activity. This supports the proposition that the attorney could be liable under RICO for their alleged actions.

[Racketeer influenced and corrupt organizations.](#)

Extract

an interest in an enterprise affecting interstate commerce;(10) (b) acquiring or maintaining through a pattern of racketeering activity or through collection of an unlawful debt an interest in an enterprise affecting interstate commerce;(11) (c) conducting or participating in the conduct of the affairs of an enterprise affecting interstate commerce through a pattern of racketeering activity or through collection of an unlawful debt;(12) or (d) conspiring to participate in any of these activities.(13) RICO's purpose is to remove organized crime from the legitimate business community.(14)... persons employed by or associated with an enterprise from conducting or participating in the conduct or the affairs of that enterprise through a pattern of racketeering activity.(197) This requires a relationship between the pattern of racketeering activity anti the enterprise.(198)... The Reves decision does not preclude professionals, such as lawyers and accountants, from being subject to RICO liability.(202)

Summary

Conditions under which individuals, including professionals like lawyers, can be held liable under RICO for participating in an enterprise's affairs through a pattern of racketeering activity. It specifies that such participation can include conducting or participating in the conduct of the enterprise's affairs through a pattern of racketeering activity or through the collection of an unlawful debt. The passage also clarifies that professionals are not exempt from RICO liability, supporting the proposition that an attorney could be liable under RICO for the described actions.

Racketeer influenced and corrupt organizations.

Extract

To prosecute a defendant under RICO, the government must prove that the defendant: (i) through the commission of two or more acts constituting a pattern of racketeering activity; (ii) directly or indirectly invested in, maintained an interest in, or participated in, an enterprise; (iii) the activities of which affected interstate or foreign commerce... Reves does not preclude professionals, such as lawyers and accountants, from being subject to RICO liability... An individual may violate [section] 1962 not only by engaging in a 'pattern of racketeering activity,' but also through 'collection of an unlawful debt.'

Summary

Necessary elements for a RICO offense, including the commission of predicate acts and participation in an enterprise affecting interstate commerce. It also clarifies that collecting an unlawful debt can be a predicate act under RICO.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Douglass, Sean M. - 2011-03-22

Extract

Section 1962(c) prohibits persons employed by or associated with an enterprise from conducting or participating in the conduct or the affairs of that enterprise through a pattern of racketeering activity. A relationship between the pattern of racketeering activity and the enterprise is required. In *Reves v. Ernst & Young*, the Supreme Court held that the requisite nexus exists only when the defendant participates in the management or operation of the enterprise. *Reves* does not preclude professionals, such as lawyers and accountants, from being subject to RICO liability. The enterprise may be 'operated...'

Summary

The passage explains that under Section 1962(c), individuals associated with an enterprise can be liable if they conduct or participate in the enterprise's affairs through a pattern of racketeering activity. The Supreme Court's decision in *Reves v. Ernst & Young* clarifies that professionals, including lawyers, can be held liable under RICO if they participate in the management or operation of the enterprise. This supports the proposition that the attorney could be liable under RICO for their involvement in the fraudulent scheme.

[Racketeer influenced and corrupt organizations.](#)

American Criminal Law Review - Georgetown University Law Center - Allison, Bridget - 1998-03-22

Extract

Section [sections] 1962(c) prohibits persons employed by or associated with an enterprise from conducting or participating in the conduct of the affairs of that enterprise through a pattern of racketeering activity. This requires a relationship between the pattern of racketeering activity and the enterprise. The Supreme Court, in *Reves*, held that the requisite nexus exists only when the defendant's predicate acts 'rise to the level' of participation in the

management or operation of the enterprise. Although RICO liability is not solely laid upon those with primary responsibility for the enterprise's affairs, to 'conduct or participate'... 1962(a)-(c) (1994). The Act defines an 'unlawful debt' at 18 U.S.C. [sections] 1961(6) (1994). The government has alleged a RICO violation involving the collection of an unlawful debt in a number of cases. See United States v. Oretto, 37 F.3d 739, 750 (1st Cir. 1994) (holding that a pattern of collection of unlawful debt alone is a predicate act for RICO liability)...

Summary

RICO liability can be established if there is a relationship between the pattern of racketeering activity and the enterprise. The passage also clarifies that the collection of an unlawful debt is a predicate act under RICO. This supports the proposition that the attorney's actions, if they involve preparing fraudulent documents and attempting to collect an unlawful debt, could constitute predicate acts under RICO.

[Racketeer Influenced and Corrupt Organizations Act.](#)

American Criminal Law Review - Georgetown University Law Center - Bailey, Lisa Pritchard - 1999-06-22

Extract

conduct or the affairs of that enterprise through a pattern of racketeering activity.(187) This requires a relationship between the pattern of racketeering activity and the enterprise.(188) ... The Reves decision does not preclude professionals, such as lawyers and accountants, from being subject to RICO liability.(192) ... An individual may violate [sections] 1962 not only by engaging in a 'pattern of racketeering activity' but also through 'collection of an unlawful debt.' 18 U.S.C. [sections] 1962(a)-(c) (1994).

Summary

Requirements for RICO liability, including the need for a relationship between the pattern of racketeering activity and the enterprise. It also clarifies that professionals, such as lawyers, can be subject to RICO liability if they participate in the conduct of an enterprise's affairs through a pattern of racketeering activity or collection of an unlawful debt. This directly supports the proposition that the attorney could be liable under RICO for their actions.

[Racketeer Influenced and Corrupt Organizations](#)

American Criminal Law Review - Georgetown University Law Center - Adam Governale, Keyes Gilmer, Elizabeth Hadley, Caroline Lagumina, Omoyele Okunola - 2022-07-01

Extract

Section 1962(c), the most commonly used RICO provision, prohibits persons employed by or associated with an enterprise from conducting or participating in the conduct or affairs of that enterprise through a pattern of racketeering activity. A relationship, or nexus, between the pattern of racketeering activity and the enterprise is required. ... Consequently, since the enterprise in subsection (c) is not being acquired, it need not have a property interest that can be acquired nor an economic motive for engaging in illegal activity; it need only be an association in fact that engages in a pattern of racketeering activity.

Summary

Section 1962(c) of RICO prohibits individuals associated with an enterprise from participating in its affairs through a pattern of racketeering activity. The passage emphasizes that the enterprise need not have a property interest or economic motive; it only needs to be an association in fact engaging in racketeering activity. This supports the proposition that an attorney, by preparing fraudulent documents and attempting to collect unlawful debts, could be participating in a RICO enterprise if these actions are part of a pattern of racketeering activity.

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

American Criminal Law Review - Georgetown University Law Center - 2021-07-01

Extract

conducting, or participating in the conduct of, the affairs of an enterprise affecting interstate or foreign commerce through a pattern of racketeering activity or collection of unlawful debt;... To prosecute a defendant under RICO, the government must prove the defendant: directly or indirectly invested in, maintained an interest in, or participated in an enterprise; through the commission of two or more acts; constituting a pattern of racketeering activity; affecting interstate or foreign commerce... An "enterprise" includes "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact."... A RICO defendant may also be an individual who is not formally employed by the enterprise, but still assists the enterprise in its racketeering activities... See e.g., Handeen v. Lemaire, 112 F.3d 1339, 1349-50 (8th Cir. 1997) (finding that attorneys who advised debtor to misrepresent expenses had participated in a RICO enterprise).

Summary

RICO statutes can apply to individuals, including attorneys, who participate in the conduct of an enterprise's affairs through a pattern of racketeering

activity. The passage specifically mentions that attorneys can be involved in RICO enterprises, as seen in the case of *Handeen v. Lemaire*. The definition of an enterprise under RICO is broad and includes any group of individuals associated in fact, which can encompass the alleged scheme involving the attorney, the mother, and others. The passage also highlights that participating in the conduct of an enterprise through racketeering activities, such as preparing fraudulent documents or attempting to collect unlawful debts, can constitute RICO violations.

[RICO: A Primer](#)

Extract

RICO provides for a civil action against persons engaged in a 'pattern of racketeering activity' or 'collection of an unlawful debt.' ... Among other things, 'racketeering activities' include 'any act which is indictable under' a list of federal criminal statutes. The list covers an expansive range of violations, for example, violations of the Hobbs Act, 18 U.S.C. § 1951 (extortion); 18 U.S.C. § 1341 (mail fraud) and 1343 (wire fraud)... Mail and wire fraud are the most common predicate acts. ... 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.

Summary

Mail and wire fraud are common predicate acts under RICO, which aligns with the claim of preparing and submitting fraudulent documents. Additionally, the passage outlines the elements required to prove a violation of Section 1962(c), which includes conducting the affairs of an enterprise through racketeering activity or unlawful debt collection. This supports the proposition that the attorney's actions could potentially be considered a RICO violation.

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list of federal criminal statutes. The list covers an expansive range of violations, for example, violations of the Hobbs Act, 18 U.S.C. § 1951 (extortion); 18 U.S.C. § 1341 (mail fraud) and 1343 (wire fraud); ... Mail and wire fraud are the most common predicate acts. ... 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.

Summary

RICO allows for civil action against individuals engaged in a pattern of racketeering activity or collection of unlawful debt. The passage outlines that mail and wire fraud are common predicate acts under RICO, which aligns with the claim of preparing and submitting fraudulent documents. Additionally, the passage explains the elements required to prove a violation of Section 1962(c), which includes conducting the affairs of an enterprise through racketeering activity or unlawful debt collection. This supports the proposition that the attorney's actions could potentially be considered a RICO violation.

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