

Recent rico developments



RICO continues to be used in novel and controversial ways. Under the former US President Clinton, the Department of Justice filed a criminal RICO complaint against the tobacco industry, alleging a four-decade long conspiracy to internationally deceive the American public by denying that smoking caused disease. The complaint survived a motion to dismiss and, to the surprise of many, was continued by the Department of Justice under President George Bush. On the legislative front, there have been no significant changes in the structure of the RICO statute since it was adopted in 1970. Various activities have been added to the list of predicate acts such as the ones related to child pornography. Perhaps the most significant addition came through the USA Patriot Act of 2001, which added terrorists' activities. In the first major use of this provision, federal prosecutors in Florida charged a professor and seven conspirators on charges of providing financial support to the Palestinian Islamic Jihad. The indictment relies on the RICO to charge the alleged terrorist financiers (Schultz, 2005).

Some Important Supreme Court Decisions

The first case is *Sedima v. Imrex, Co.* (1985). The first important test of the civil RICO provisions came in a joint pair of cases that tested how closely the RICO related to the traditional concepts of organized crime. The civil remedies available under the RICO are modeled after the Federal Antitrust Law. The powerful provisions - treble damages and attorneys' fees - did not become popular for almost ten years after the act became law, when it became clear that the RICO extended far beyond the organized crime. The plaintiff in *Sedima* claimed injuries from an overbilling scheme and the RICO jurisdiction by virtue of mail and wire fraud. The lower courts sought to limit civil RICO

claims to cases with the RICO-type injury reasoning that otherwise defendants would be unfairly stigmatized with the appellation ' racketeer' and that punitive-like damages would be available without the protection of criminal law. It was concluded that the fact that the RICO is used against respected business is hardly a sufficient reason for assuming that the provision is being misconstrued. The majority court concluded that the fact that the RICO had been applied in situations not expressly anticipated by the Congress did not demonstrate ambiguity. Instead, it demonstrated breadth (Bucy, 1992).

Another case is U. S. v. Tuekette (1981). The first important test of the criminal provisions in the RICO involved the extent to which the statute federalized the state crime. The defendant in a RICO prosecution for drug dealing argued that the RICO was intended solely to protect legitimate business enterprises from infiltration by racketeers and therefore should not be read to make a federal crime out of an association which performs only illegal acts. In the decision, the Supreme Court ruled that the term ' enterprise' encompassed both legitimate and illegitimate enterprises and that neither the language nor the legislative history of the act limits its application to legitimate enterprises, the implication of the interpretation was significant for the balance between the federal and state law enforcement. The Court reviewed various objections to this " federalization" of state crime in the legislative history of the RICO and ruled out that the Congress knowingly adopted a law that would entail prosecutions involving acts of racketeering that are also crimes under the state law (Batista, 2007).

Conclusion

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Generally, the description of 'enterprise' makes it clear that the evidence that is used in proving the pattern of racketeering activities may also be used in demonstrating the existence of the enterprise. Also, it is evident that civil remedies are wider in nature and they are not limited to suits against people connected with the organized crime. Finally, the RICO provisions are not applicable to claims for economic losses and damages due to personal injuries.