This commentary by Professor Blakey on the definitions of terms within the federal criminal statutes pertaining to RICO is most impressive in itself and in leading to other commentaries.

1961. Definitions

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COMMENTARY

DEFINITIONS
TITLE 18. CRIMES AND CRIMINAL PROCEDURE
PART I. CRIMES
CHAPTER 96. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

§ 1961. Definitions

Prof. G. Robert Blakey
Notre Dame Law School
The National Institute for Trial Advocacy
Notre Dame Law School

RICO's definitions, 18 USCS § 1961, are the building blocks of the statute. They are not all drafted identically: some say, "means"; others say, "includes"; and one says "requires." The difference reflects difference in meaning. "Means" is a word of limitation ("only");

"includes" is a word of illustration ("at least");

"requires" is a word of limitation.

See generally, Helvering v. Morgan's, Inc., 293 U.S. 121, 125 n.1, 79 L. Ed. 232, 235 n.1, 55 S. Ct. 60, 61 n.1 (1934).

Definitions that say "means" are denotative, that is, exhaustive; definitions that say "includes" are ostensive, that is, illustrative. A definition that says "requires" is a limitation that is applied to a definition that is derived otherwise.

As in the antitrust statutes on which RICO was modeled, Congress deliberately used in RICO's definitions "a generality and adaptability [of language] comparable to that found to be desirable in constitutional provisions." Appalachian Coals, Inc. v. United States, 288 U.S. 344, 359-60, 77 L. Ed. 825, 829, 53 S. Ct. 471, 474 (1933) (antitrust). Indeed, Congress mandates that RICO itself be "liberally construed to effectuate its remedial purposes." Pub. Law. No. 91-452, 84 Stat. 947 (1970).

Racketeering Activity

RICO's definition of "racketeering activity", § 1961(1) incorporates in subdivisions (A) through (F) by reference the language of selected state and federal offenses. Subdivision (A) lists the state offenses and subdivisions (B) through (F) list the federal offenses. The incorporated offenses are "predicate offenses," since showing their elements is a "predicate" for a showing of a RICO violation. Sedima, S.P.R.L. v. Imrex, Co., 473 U.S. 479, 484, 87 L. Ed. 2d 346, 351, 105 S. Ct. 3275, 3278 (1985).

Some of the offenses are incorporated generically, others specifically. The difference affects the date of incorporation. See Hassett v. Welsh, 303 U.S. 303, 314, 82 L. Ed. 858, 867, 58 S. Ct. 559, 565 (1938) (if a specific statute is incorporated, its text is read as of date of its enactment); United States v. Chatham, 677 F.2d 800, 803-04 (11th Cir. 1982) (if body of law is incorporated generically, its text is read as of date of the conduct).

Different words preface the predicate offenses. Subdivision (A) incorporates state offenses, saying "any act or threat involving." Subdivision (D) incorporates federal offenses, saying "involving." "Involving" carries with it inchoate offenses (attempts and conspiracies). United States v. Pungitore, 910 F.2d 1084, 1135 (3d Cir. 1990). Subdivision (A) also says "chargeable"; it does not include state procedural limitations; thus, a person convicted or acquitted under state law is still "chargeable" under RICO. United States v. Coonan, 938 F.2d 1553, 1563-65 (2d Cir. 1991). In brief, state law only "defines" the prohibited conduct. See United States v. Welch, 656 F.2d 1039, 1058 (5th Cir. 1981).

Subdivisions (B), (C), (E), and (F) incorporate federal offenses, saying "any act which is indictable." Inchoate offenses are not included; thus, since "conspiracy" is not included within 18 USCS § 1955 (syndicate gambling), it is not a predicate offense under § 1961. United States v. Ruggiero, 726 F.2d 913, 913-20 (2d Cir.). On the other hand, because aiding and abetting under 18 USCS § 2 is one of the ways that federal offenses may be committed, it is "indictable." Pungitore, 910 F.2d at 1131-34.

"Racketeering activity" may be grouped into four broad, but not mutually exclusive, categories: (1) violence (e.g., murder, kidnapping, arson, and extortion); (2) the provision of illegal goods and services (e.g., gambling, narcotics, prostitution, pornography, loan sharking, theft and fencing, counterfeiting, sexual exploitation of children, and illegal aliens); (3) corruption in government or the labor movement (e.g., bribery, extortion, fraud, illegal payments under the Taft-Hartley Act, and embezzlement from unions and pension and welfare funds); and (4) commercial or other frauds (e.g., securities, mail, wire, travel, bank, and bankruptcy fraud).

Specific reference to "racketeering activity" is required for inclusion in "pattern of racketeering." Bast v. Cohen, Dunn & Sinclair, P.C., 59 F.3d 492, 495 (4th Cir. 1995). The definition of "pattern" is discussed below.

The particular jurisprudence of the predicate offenses incorporated into RICO is beyond the scope of this commentary.

Person

"Person" includes any individual or entity. § 1961(3). "Person" defines the class that may criminally "violate" RICO under 18 USCS §§ 1962, 1963. It also defines the class that may sue civilly for a "violation" of RICO under 18 USCS §§ 1962, 1964. See the separate commentaries on these sections.

Arguably, the word "person" in the standards, that is, the substantive elements (not burden of proof, etc.) of RICO for criminal and civil "violations" ought to be understood in the same sense, since the word "violate" does not have a different meaning in §§ 1963 and 1964. Sedima, 473 U.S. at 489, 87 L. Ed. at 354, 105 S. Ct. at 3281. See also Shearson/American Express, Inc. v. McMahon, 482 U.S. 220, 239, 96 L. Ed. 2d 185, 202, 107 S. Ct. 2332, 2344 (1987) ("a 'pattern' for civil purposes is a 'pattern' for criminal purposes") (citations omitted); accord, H. J., Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 236, 106 L. Ed. 2d 195, 206, 109 S. Ct. 2893, 2899 (1988); see generally United States ex rel. Marcus v. Hess, 317 U.S. 537, 542, 87 L. Ed. 443, 448, 63 S. Ct. 379, 383 (1943) (False Claims Act); Northern Sec. Co. v. United States, 193 U.S. 197, 401, 48 L. Ed. 679, 726, 24 S. Ct. 436, 468 (1904) (Sherman Act) (Holmes, J. in dissent). Nevertheless, the Supreme Court's decisions under RICO are not consistent. Compare Salinas v. United States, 522 U.S. 52, 60, 139 L. Ed. 2d 352, 363, 118 S. Ct. 469, 475 (1997) (usual rules applied to criminal conspiracy) with Beck v. Prupis, 529 U.S. 494, 504, 146 L. Ed. 2d 561, 570, 120 S. Ct. 1608, 1615 (2000) (different rule applied to civil rather than criminal conspiracy).

Nor are the decisions of the circuit courts of appeal consistent in the sense in which "person" is used. The circuit courts of appeal generally agree that an individual may be a "person" for criminal and civil purposes, though exceptions are made in certain civil circumstances; the circuit courts of appeal also differ in assessing when an "entity" may be a "person" in civil contexts.

An "entity" can only act through the conduct of its officers, employees, and agents. At the turn of the century, the Supreme Court established that the conduct of an officer, employee, or agent of an entity can only be attributed to an entity for primary criminal responsibility when the officer, employee, or agent acts in the scope or his or her employment or agency and with the "intent to benefit" the entity. New York Cent. & H.R.R. Co. v. United States, 212 U.S. 481, 493-94, 53 L. Ed. 613, 621, 29 S. Ct. 304, 306 (1909). New York Central remains good law. See, e.g., Standard Oil Co. of Tex. v. United States, 307 F.2d 120, 127-28 (5th Cir. 1962); United States v. Ridglea State Bank, 357 F.2d 495, 497-99 (5th Cir. 1966).The law is ably reviewed in Tania Brief et al., Note, Corporate Criminal Liability, 40 Am. Crim. L. Rev. 337 (2003). The principles of primary criminal responsibility for an entity under RICO also apply for primary civil responsibility for an entity under RICO. D & S Auto Parts, Inc. v. Swartz, 338 F.2d 964, 966-68 (7th Cir. 1988).

Secondary criminal or civil responsibility for a "person" may also be established through aiding and abetting or conspiracy theory.

Conspiracy theory is principally discussed under § 1962(d). The decisions of the circuit courts of appeal do not question that aiding and abetting theory applies to hold an individual or an entity

responsible criminally. On the other hand, a split in the circuit courts of appeal exists on the application of aiding and abetting theory to hold an individual or entity responsible civilly. Compare Rolo v. City Investing Co. Liquidating Trust, 155 F.3d 644, 655-57 (3d Cir. 1988) (no) with Aetna Cas. Sur. Co. v. P & B Autobody, 43 F.3d 1546, 1560 (1st Cir. 1995) (yes).

Rolo is wrongly decided; it mistakenly applies to civil RICO Cent. Bank of Denver, N.A. v. First Interstate Bank, N.A., 511 U.S. 164, 171-90, 128 L. Ed. 2d 119, 129-140, 114 S. Ct. 1439, 1445-1454 (1994) (no implied aiding and abetting under Section 10(b) of the Securities Act of 1934 (15 USCS § 78j(b))) without recognizing the distinction between Title 15 of the United States Code, where the securities acts have been codified but which has not been adopted as positive law by Congress, and Title 18 of the United States Code, which was enacted as law by the Congress.

See 1 USCS §§ 112, 204; J Myron Jacobstein et al., Fundamentals of Legal Research 143-45 (1987).

The chapters of Title 15 reflect separate acts of Congress enacted at different times and in isolation from each other; they are placed in Title 15 by the Office of the Law Revision Counsel. Title 18 of the United States Code, on the other hand, was enacted into law by Congress. RICO ("Chapter 96 -- Racketeering and Influenced and Corrupt Organizations") was, in short, adopted by Congress as part of Title 18, which, since it was enacted by Congress, must be read as a whole, each section in light of each other section, in particular § 2(b) ("Chapter 1 -- General Provisions").

In brief, § 2(b) applies aiding and abetting theory to all of Title 18, including Chapter 96, that is, RICO, criminally and civilly, since it establishes one of the ways in which RICO may be "violated." Without question, the word "violate" means the same thing in § 1963 (criminal responsibility) and § 1964 (civil responsibility). Sedima, 473 U.S. at 489, 87 L. Ed. 2d at 354, 105 S. Ct. at 3281.

Accordingly, one chapter of an integrated book of law ought not to be read in isolation from another chapter. In fact, the Third Circuit got it right in United States v. Local 560 of the International Brotherhood of Teamsters, 780 F.2d 267, 288 n.25 (3d Cir. 1985), affirming, 581 F. Supp. 279, 332-34 (D.N.J. 1984) (state of mind required for RICO; § 2 governs civil aiding and abetting under RICO). The Third Circuit's other holding in Petro-Tech., Inc. v. Western Co. of N. Am., 824 F.2d 1349, 1356-60 (3d Cir. 1987) that general civil standards of aiding and abetting (knowing and substantial conduct) rather than criminal standards of aiding and abetting under § 2 (intentional facilitation) are applicable to RICO is anomalous, though it is followed in other circuits. See, e.g., Cox v. Adm'r United States Steel & Carnegie, 17 F.3d 1386, 1411, modified on other grounds en banc, 30 F.3d 1347 (11th Cir.1994).

That a "person" does not fall within the class that can "violate" a predicate offense is not necessarily a defense to an aiding and abetting or a conspiracy charge under RICO. See United States v. Rastelli, 870 F.2d 822, 831-32 (2d Cir. 1989) (aiding and abetting); United States v. Norton, 867 F.2d 1354, 1358-59 (11th Cir. 1989) (conspiracy). See generally Coffin v. United States, 156 U.S. 432, 447, 39 L. Ed. 481, 489, 15 S. Ct. 394, 400 (1895) (aiding and abetting);

United States v. Rabinowich, 238 U.S. 78, 86, 59 L. Ed. 1211, 1214, 35 S. Ct. 682, 684 (1915) (conspiracy).

Civilly, a federal or local governmental entity is not a "person" that may be sued under RICO. See, e.g., Berger v. Pierce, 933 F.2d 393, 397 (6th Cir. 1991) (Federal Insurance Administration not "person"); Lancaster Community Hosp. v. Antelope Valley Hosp. Dist., 940 F.2d 397, 404-05 (9th Cir. 1991) (municipal entity not "person").

Nor is the federal government a "person" that may sue civilly for legal relief under RICO. United States v. Bonnano Organized Crime Family, 879 F.2d 20, 21-27 (2d Cir. 1989) (federal government not "person" that may sue for treble damages).

Bonnano is indefensible as a matter of the text of RICO and sound policy. See 18 USCS § 1964(b) (attorney general may sue under "section"). The text of § 1964(b) does not limit the sections of § 1964 to which it applies; as such, it applies to § 1964(a) (equity relief) and to § 1964(c) (treble damage relief). No convincing policy justification can be offered why the federal government should be able to sue for equity relief but not damage relief under the parallel sections of a remedial statute that must be liberally construed.

On the other hand, a foreign or state entity is a "person" that may sue under RICO for treble damage relief. Republic of Philippines v. Marcos, 862 F.2d 1355, 1358 (9th Cir. 1988) (en banc) (foreign government is a "person"); Illinois Dep't of Revenue v. Phillips, 771 F.2d 312, 314-17 (7th Cir. 1985) (state is a "person"). That a foreign or state entity is a "person" able to sue for treble damage relief makes it all the more anomalous that the federal government cannot sue for treble damages relief.

De facto corporations are not "persons." Fleischhauer v. Feltner, 879 F.2d 1290, 1299 (6th Cir. 1989). Nevertheless, if an unincorporated association can hold an interest in property, it is a "person." Jund v. Town of Hempstead, 941 F.2d 1271, 1291 (2d Cir. 1991).

Traditional official immunities from civil suit for individuals apply to "person" under RICO. See, e.g., Beck v. Texas State Bd. of Dental Examiners, 204 F.3d 629, 636-37 (5th Cir. 2000) (medical board members entitled to absolute immunity); Brown v. Nationsbank Corp., 198 F.3d 579, 587 (5th Cir. 1999) (FBI agents and private persons protected by qualified immunity for undercover operations).

Enterprise

The two elements of substantive RICO that give litigants and courts the most difficulty are "enterprise" and "pattern." "Pattern" is more fully discussed below.

"Enterprise", § 1961(4), is an ostensive, not denotative, definition; the list of "enterprises" is, therefore, illustrative, not exhaustive. See United States v. Masters, 924 F.2d 1362, 1366 (7th Cir.) ("enterprise" includes a group of individuals, a law firm, and two police departments). The failure to distinguish between ostensive (at least) and denotative (only) definitions may account in part for some of the difficulty of litigators and courts in handling "enterprise."

Neither "enterprise" nor "pattern" is a common law concept. Agency Holding Corp. v. Malley-Duff & Associates, 483 U.S. 143, 150, 97 L. Ed. 2d 121, 129, 107 S. Ct. 2759, 2764 (1987) ("simply unknown to the common law"). That, too, may explain part of the difficulty of litigators and courts in handling the concepts.

The failure of litigators and courts to see that "enterprise" plays different, but not mutually exclusive, roles in different fact patterns under RICO may also explain part of the difficulty.

The roles include "victim" (e.g., an otherwise innocent "enterprise" is injured); "prize" (e.g., control is sought over an "enterprise"); "instrument" (e.g., an otherwise innocent "enterprise" is used); or "perpetrator" (e.g., the "enterprise" itself is culpable). See NOW v. Scheidler, 510 U.S. 249, 259 n.5, 127 L. Ed. 2d 99, 109 n. 5, 114 S. Ct. 798, 805 n.5 (1994) (citations omitted).

The possibility that different roles may be played by alternative allegations of "enterprise" (none excludes another; nor is only one "right") requires that a litigator carefully analyze the facts to determine which role(s) to allege. Depending on the "enterprise" allegation(s) used, issues of joinder of offenders and offenses, the admissibility of evidence, and the applicably of sanctions, in particular forfeiture, will vary. See generally Thomas O'Neill, Functions of the Enterprise Concept, 64 Notre Dame L. Rev. 646 (1989).

The application of "enterprise" to legitimate entities presents few problems. See, e.g., United States v. Beasley, 72 F.3d 1518, 1525 (11th Cir. 1996). Its application to associations-in-fact is more problematic.

The Supreme Court attempted to clarify the issue in United States v. Turkette, 452 U.S. 576, 69 L. Ed. 2d 246, 101 S. Ct. 2524 (1981). There, the Court held that "enterprise" extends to illicit as well as licit enterprises, and that when the enterprise is illicit, the "enterprise" and the "pattern" of predicate acts must be distinct, though the evidence of each could "coalesce." The Court observed:

In order to secure a conviction under RICO, the Government must prove both the existence of an "enterprise" and the connected "pattern of racketeering activity." The enterprise is an entity, for present purposes a group of persons associated together for a common purpose of engaging in a course of conduct. The pattern of racketeering activity is, on the other hand, a series of criminal acts as defined by the statute. * * * The former is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit. The latter is proved by evidence of the requisite number of acts of racketeering committed by the participants in the enterprise. While the proof used to establish either separate element may in a particular case coalesce, proof of one does not necessarily establish the other. * * * The existence of an enterprise at all time remains as separate element, which must be proved by the Government. Id., 452 U.S. at 583, 69 L. Ed. 2d at 254, 101 S. Ct. at 2528.

Since Turkette, the circuit courts of appeal require an association-in-fact to reflect: (1) common purpose, (2) membership (change in membership does not defeat a showing of "enterprise"), (3) structure (hierarchical or consensual decision-making process, typically shown by role

differentiation), (4) distinctiveness (the "enterprise" does not merge into the "pattern" of predicate acts), and (5) continuity (the "enterprise" must continue over a substantial period of time).

The common purpose requirement of Turkette may be confused by litigators and courts when the focus of analysis shifts between wholly illicit enterprises, as in Turkette, and other enterprises, which are basically lawful, but perverted by a subset of its members for illicit purposes, as in Beasley, supra, or where an enterprise is composed of witting and unwitting members, as in Aetna Casualty & Surety Co., infra. In fact, an enterprise may contain opposing factions. United States v. Orena, 32 F.3d, 704, 710 (2d Cir. 1994). Obviously, the common purpose requirement differs in different fact patterns. For an excellent discussion of the issues, see United States v. Feldman, 853 F.2d 648, 655-60 (9th Cir. 1988).

Following Turkette, the Eighth Circuit initiated a split in the circuit courts of appeal by adding a restrictive gloss to Turkette in United States v. Bledsoe, 674 F.2d 647 (8th Cir. 1982). There, the court endeavored to make "enterprise" more closely reflect the organized crime focus of the origins of RICO, as the court narrowly conceived them, by requiring an association-in-fact to have: (1) common purpose, (2) ongoing organization with members functioning as a continuing unit, and, significantly, (3) an ascertainable structure distinct from that inherent in the pattern of racketeering activity. Bledsoe is now the majority rule. Compare Chang v. Chen, 80 F.3d 1293, 1297-1301 (9th Cir. 1996) (distinct structure: yes) with United States v. Bagaric, 706 F.2d 42, 55 (2d Cir.) (distinct structure: no).

Under Bledsoe, the easiest way to show distinctiveness between the enterprise and the predicate acts is to show that the enterprise is a legal entity or that it performs functions other than the predicate acts. Nevertheless, even under Bledsoe, showing that an association-in-fact engaged in lawful conduct beyond the predicate acts or even engaged in more than one kind of predicate act is not necessary. See, e.g., Webster v. Omnitrition Int'l, Inc., 79 F.3d 776, 786-87 (9th Cir. 1996) (corporation set up to perform only predicate acts distinct).

The enterprise need not have a common purpose beyond the common purpose of the predicate acts. Diamonds Plus, Inc. v. Kolber, 960 F.2d 767, 770 (8th Cir. 1992).

While an association-in-fact must have more structure than a mere conspiracy, it need not be much. United States v. Korando, 29 F.3d 1114, 1117-19 (7th Cir.). Nevertheless, it must go beyond the minimum level of cooperation required to commit the predicates acts. Hartz v. Friedman, 919 F.2d 469, 471 (7th Cir. 1990).

Prior to Turkette -- the First and Eighth Circuits were conspicuous exceptions, and their approach was rejected by Turkette -- the decisions of the circuit courts of appeal reflected little difficulty finding that associations-in-fact existed. Since Turkette, difficulties persist, but they are different in focus. Certain rules, however, are well-established:

(1) Not only individuals but corporations may compose an association-in-fact. United States v. Perholtz, 842 F.2d 343 (D.C. Cir. 1988).

(2) An association-in-fact is not a conspiracy; it may include the victim. Aetna Cas. & Sur. Co. v. P & B Autobody, 43 F.3d 1546 (1st Cir. 1994).

(3) The "person" (i.e., the defendant) and the "enterprise" must be distinct under 18 USCS § 1962(c), Cedric Kushner Promotions, Ltd. v. King, 533 U.S. 158, 160, 150 L. Ed. 2d 198, 202, 121 S. Ct. 2087, 2089 (2001) (sole shareholder and president of corporation is distinct from the corporation), but not under 18 USCS §§ 1962(a), 1962(b). United Entergy Owners Committee, Inc. v. United States Entergy Mgmt. Systems, Inc., 837 F.2d 356, 364 (9th Cir. 1988).

(4) Individual members of an association-in-fact are distinct from the association-in-fact itself; they may be defendants under § 1962(c). St. Paul Mercury Ins. Co. v. Williamson, 224 F.3d 425, 440-41 (5th Cir. 2000).

(5) An association-in-fact composed of simply a corporation, its officers, employees, and agents is not distinct from the corporation; the corporation may not be made a defendant under § 1962(c). Parker & Parsley Petroleum Co. v. Dressler Indus., 972 F.2d 580, 584 (5th Cir. 1989).

Pattern of racketeering activity

Following a widespread split in the circuit courts of appeal after the Court's invitation in Sedima, 473 U.S. at 496 n.14, 87 L. Ed. Ed at 359 n.14, 105 S. Ct. at 3285 n.14, to develop a principled limitation on the perceived flood of civil litigation under RICO, the Supreme Court attempted to clarify "pattern", § 1961(5), in H.J. Inc., 492 U.S. at 237-39, 106 L. Ed. 2d at 206-208, 109 S. Ct. at 2899-2900. There, the Court developed a fairly precise six-step process to use to determine whether "pattern" is present.

A two prong test is to be used: relationship and continuity (or the threat of continuity) are required. Up to six questions about the predicate acts are relevant:

(1) Are the predicate acts (at least two) in a series related to one another, i.e., are they part of a single scheme?

(2) If not a part of a single scheme, are the predicate acts related to an external organizing principle, e.g., to the affairs of the enterprise?

If the answer to these two questions is negative, then "relationship" is not present, one prong of the two-prong test is absent, and asking further questions is superfluous.

If the answer to either question is affirmative, then "relationship" between the predicate acts is present, one prong of the two-prong test for "pattern" is present, and up to four additional questions are relevant to the second prong (continuity (or its threat)):

(3) Are the predicate acts in the series of predicates open-ended, i.e., do the predicate acts have no obvious termination point?

(4) If not open-ended, did the predicate acts in the closed-ended series continue for a substantial period of time (i.e., more than a few months)?

If the answer to either question is affirmative, continuity by the predicate acts is present.

If the answer to both questions is negative, up to two additional questions are relevant:

(5) May a threat of continuity by the predicate acts be inferred from the character of the illegal enterprise?

(6) If not, may a threat of continuity of the predicate acts be otherwise inferred, e.g., the predicate acts represent the regular way of doing business of a lawful enterprise?

If the answer to either question is affirmative, a threat of continuity by the predicate acts is present.

As a rule of thumb, a closed-end scheme that does not extend beyond twelve months lacks continuity. Hughes v. Consol-Pennsylvania Coal Co., 945 F.2d 594, 609-11 (3d Cir. 1991). But see Allwaste, Inc. v. Hecht, 65 F.3d 1523, 1528 (9th Cir. 1995) (refusing to adopt a per se rule).

The assessment of continuity is prospective; it is not a matter of hindsight, i.e., after the pattern ends. United States v. Aulicino, 44 F.3d 1102, 1112 (2d Cir. 1995).

For an excellent discussion on the difficulties of defining a "primary" concept like "pattern," see Apparel Art Int'l, Inc. v. Jacobson, 967 F.2d 720, 722-24 (1st Cir. 1992) (Breyer, J.).

A "pattern" must be in the affairs of the enterprise under 18 USCS § 1962(c), United States v. Miller, 116 F.3d 641, 675-76 (2d Cir. 1997) (in the affairs if predicate acts are related to the affairs, even if not in furtherance of them, or if able to commit the predicate acts solely by virtue of position in enterprise), and if it is not, liability is not shown. Palmetto State Medical Ctr. v. Operation Lifeline, 117 F.3d 142, 149 (4th Cir. 1997) (no evidence conduct in affairs of enterprise).

Unlawful Debt

While the collection of an unlawful debt, § 1961(6), need not be part of a "pattern," it must be in connection with a business; an isolated transaction is not within the statute. See, e.g., Wright v. Sheppard, 919 F.2d 665, 673 (11th Cir. 1990).

Other Definitions

The other definitions found in § 1961 have not come up in litigation or have not occasioned substantial judicial exegesis.

Related Commentaries

For additional NITA Commentary regarding the Racketeer Influenced and Corrupt Organizations Act, see:

NITA Commentary, Title 18, preceding § 1961 (Overview)

NITA Commentary, Title 18, § 1962 (Prohibited activities)

NITA Commentary, Title 18, § 1963 (Criminal penalties)

NITA Commentary, Title 18, § 1964 (Civil remedies)

NITA Commentary, Title 18, § 1965 (Venue and process)