**18.13 RICO—Racketeering Act—Not Charged as Separate**

**Count in Indictment (18 U.S.C. § 1961(1))**

The crime of [specify crime charged] is a racketeering act. For you to find that the defendant [committed] [aided and abetted others in committing] the crime of [*specify crime charged*], the government must prove each of the following elements beyond a reasonable doubt:

[*Specify elements of the crime*.]

[All of you must agree on the same two racketeering acts that the defendant [committed] [aided and abetted in committing].]

**Comment**

There is no requirement that the defendant must have been convicted of the crime constituting an act of racketeering activity before the act can be used as part of the pattern of racketeering activity. *Sedima, S.P.R.L. v. Imrex Co.,* 473 U.S. 479, 495-97 (1985). Even though a defendant has previously been acquitted of a crime in a state court, he or she can still be charged with violating the RICO statute “with the [same] crime as predicate acts.” *United States v. Licavoli*, 725 F.2d 1040, 1047 (6th Cir. 1984).

A pattern of racketeering activity requires at least two acts of racketeering activity. 18 U.S.C. § 1961(5). More than one crime may be charged as a racketeering act.