**18.18 RICO—Conducting Affairs of Association–in–Fact**

**(18 U.S.C. § 1962(c))**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with having [conducted] [participated in the conduct of] the affairs of an enterprise through a pattern of racketeering activity in violation of Section 1962(c) of Title 18 of the United States Code. For the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, there was an ongoing enterprise with some sort of formal or informal framework for carrying out its objectives consisting of a group of persons associated together for a common purpose of engaging in a course of conduct;

Second, the defendant was employed by or associated with the enterprise;

Third, the defendant [conducted] [participated, directly or indirectly, in the conduct of] the affairs of the enterprise through a pattern of racketeering activity or collection of unlawful debt. To conduct or participate means that the defendant had to be involved in the operation or management of the enterprise; and

Fourth, the enterprise engaged in or its activities in some way affected commerce between one state and [an]other state[s], or between the United States and a foreign country.

An enterprise need not be a formal entity such as a corporation and need not have a name, regular meetings, or established rules.

**Comment**

When racketeering acts are charged as separate counts in the indictment, use this instruction in combination with Instructions 18.12 (RICO–Racketeering Act–Charged as Separate Count in Indictment) and 18.14 (RICO–Pattern of Racketeering Activity). When the racketeering acts are not charged as separate counts in the indictment, use this instruction in combination with Instructions 18.13 (RICO–Racketeering Act–Not Charged as Separate Count in the Indictment) and 18.14 (RICO–Pattern of Racketeering Activity).

RICO requires that an association-in-fact enterprise must have a structure, but the word “structure” need not be used in the jury instruction. *Boyle v. United States*, 556 U.S. 938, 946 (2009). The definition of “enterprise” in the first element of the instruction is based on *Boyle*, 556 U.S. at 949, and *United States v. Turkette*, 452 U.S. 576, 583 (1981).

For RICO purposes, an association-in-fact enterprise “need not have a name, regular meetings, dues, established rules and regulations, disciplinary procedures, or induction or initiation ceremonies.” *Boyle*, 556 U.S. at 948.

Defendants in RICO actions must have had “some knowledge of the nature of the enterprise . . . to avoid an unjust association of the defendant[s] with the crimes of others,” but the requirement of a common purpose may be met so long as the defendants were “each aware of the essential nature and scope of [the] enterprise and intended to participate in it.” *United States v. Christensen*, 828 F.3d 763, 780-81 (9th Cir. 2015), *as amended on denial of reh’g* (9th Cir. 2016). A RICO enterprise is not defeated even when some of the enterprise’s participants lack detailed knowledge of all of the other participants or their activities. Instead, “it is sufficient that the defendant knows the general nature of the enterprise and know that the enterprise extends beyond his individual role.” *Id.* at 780.

*See United States v. Shryock*, 342 F.3d 948, 985-86 (9th Cir. 2003) (defining “conducts or participates” in the affairs of the enterprise).

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