

FRAUD

DEFINITION;

[fraudulent \(adj.\)](#) 

early 15c., from Old French fraudulent, from Latin fraudulentus "cheating, deceitful, dishonest," from stem of fraus "deceit" (see [fraud](#)). Earlier was fraudful (c. 1400). The Old French word was fraudios. Related: Fraudulently.

STATEMENT OF FACT;

- Neither WeRe Bank nor its Re-Movement Members are cheating or trying to pass off anything as anything it is NOT.
- Everything is clear and regular on its face.
- The instruments issued by WeRe Bank Account Holders all comply with the tenure and interpretation of the Bills of Exchange Act 1882
- No claims have been made that WeRe Bank is a Regulated Business
- No claim has been made that were bank is recognised by any statutory or governmental authority (so called) in the UK or Abroad
- A cheque is a cheque – it can be written upon anything what so ever.
- The DRAWEE is clearly identified and in no way mistake-able for any other party in the banking or financial world.

There is no dishonesty as all parties have come to the table believing that a promissory note, the basis for all commercial activity upon the planet, is a valid and legal instrument.

This backing document produces a "chose in action".

The cheque cannot be misleading or invalid – it can only be so if the DRAWER had exceeded his LIMIT. This is guarded against.

Making or supplying articles for use in frauds (Section 7)

http://www.cps.gov.uk/legal/d_to_g/fraud_act/#a03

The defendant:

- makes, adapts, supplies or offers to supply any article; for use in the course of or in connection with fraud;
- knowing that it is designed or adapted for use in the course of or in connection with fraud (Section 7 (1) (a)) or
- intending it to be used to commit or assist in the commission of fraud (Section 7 (1) (b)).

"Knowledge" in Section 7 (1) (a) is a strict mens rea requirement. The House of Lords in Montila [2004] UKHL 50 said:



"A person may have reasonable grounds to suspect that property is one thing (A) when in fact it is something different (B). But that is not so when the question is what a person knows. A person cannot know that something is A when in fact it is B. The proposition that a person knows that something is A is based on the premise that it is true that it is A. The fact that the property is A provides the starting point. Then there is the question whether the person knows that the property is A."

In practice, the use to which the article can be put is likely to provide sufficient evidence of the defendant's state of mind. For example, articles such as:

- the kits that are attached to ATM machines to capture card details;
- forged credit cards or the equipment for making them;
- lists of credit card numbers;
- counterfeit goods presented as genuine;
- do not have an innocent purpose that readily springs to mind.

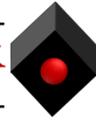
A person who makes an article specifically for use in fraud, for example, a software programme to create a phishing website or send phishing email, may be ambivalent about whether the person to whom it is supplied actually uses it for fraud. He will fall foul of Section 7 (1) (a) but will not have the necessary intention for Section 7 (1) (b).

The manufacturer of articles that are capable of being used in or in connection with fraud but have other innocent uses will not fall foul of this section unless he intends that it should be used in a dishonest way (Section 7 (1) (b)). The makers of credit card readers are one example. The readers have an innocent purpose they are commonly used by traders who "store up" the details of all the transactions carried out during a day and submit them all together at the end of the day. The card reader merely verifies the validity of the card at the point when it is read and stores all the necessary information about the transaction. The other, dishonest, use is by point of sale staff who use the readers to "skim" credit card details either for use or sale. The dishonest manufacturer who intended a dishonest use would be guilty of Section 7 (1) (b) offence.

What is RICO Law? [*RICO 1970]

RICO law refers to the prosecution and defence of individuals who engage in organized crime. In 1970, Congress passed the Racketeer Influenced and Corrupt Organizations (RICO) Act in an effort to combat Mafia groups. Since that time, the law has been expanded and used to go after a variety of organizations, from corrupt police departments to motorcycle gangs. RICO law should not be thought of as a way to punish the commission of an isolated criminal act. Rather, the law establishes severe consequences for those who engage in a pattern of wrongdoing as a member of a criminal enterprise.

Title 18, Section 1961 of the United States Code [infra] sets forth a long list of racketeering activities, the repeated commission of which can form the basis of a RICO Act claim. These underlying federal and state offenses exist independently of the act, and include the crimes of homicide, kidnapping, extortion, and witness tampering. Racketeering activities also include property crimes such as robbery and arson. A number of financial crimes are also listed, such as money laundering, counterfeiting, securities violations, as well as mail and wire fraud, funding wars



or aggression, funding and sponsoring terrorist cells, funding arms shipments, human trafficking, slavery and other covert activities.

Penalties in Criminal Court

The RICO Act provides both criminal and civil penalties. This means claims can be brought by prosecutors on behalf of the government, or by private individuals. In criminal prosecutions, the jury must be convinced of the defendant's guilt beyond a reasonable doubt. This is the highest burden of proof that exists in the American legal system. *Violations are punishable by up to 20 years in prison. The sentence can be increased to life in prison if authorized by the underlying crime. Offenders also face a fine of either \$250,000, or double the amount of the proceeds earned from the activity.*

As a tool for dismantling criminal enterprises, following a conviction the government is automatically given a forfeiture of all of the defendant's interest in the organization. So not only do defendants lose all their money and property that can be traced back to the criminal conduct, but the organization itself can be severely crippled.

And the government need not wait until after a guilty verdict, when the property expected to become subject to forfeiture may be difficult to locate. The rules of procedure in a RICO prosecution allow the government to freeze the defendant's assets before the case even goes to trial.

Civil Remedies for Victims

For civil claims brought by private parties who have been victimized by a criminal organization, the burden of proof is less onerous than in criminal court. A preponderance of the evidence standard applies. This means the jury must find that it is at least slightly more likely than not that the racketeering activities did in fact happen as alleged. Despite the lower burden of proof, civil RICO lawsuits are difficult and expensive for individuals to pursue. Those who win are rewarded, however. Successful plaintiffs can recover "treble damages," or in other words, three times the amount of money they lost due to the defendant's actions.

Specific Elements of a RICO Claim

Liability for a RICO violation requires that a person be involved in an enterprise that operates through a pattern of racketeering activity. This raises a couple of issues that will prove important to anyone defending or pursuing a RICO case. First, a controversy may arise as to what will satisfy the element requiring an enterprise. Corporations, partnerships, and other businesses will surely qualify as enterprises. But what about informal organizations, like street gangs?

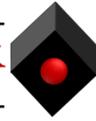
The Supreme Court considered the issue, and determined that an enterprise can be any group with members who are associated in a relationship in order to achieve a common purpose, provided the relationship lasts long enough to allow them to pursue that purpose. In the terminology of RICO law, such groups are known as "association-in-fact" enterprises.

18 U.S. Code Chapter 96 - RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

18 U.S. Code § 1961 - Definitions

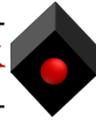
As used in this chapter—

(1) "racketeering activity" means



(A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in **obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)**, which is chargeable under State law and punishable by imprisonment for more than one year;

(B) any act which is indictable under any of the following provisions of title 18, United States Code: Section [201](#) (relating to bribery), section [224](#) (relating to sports bribery), sections [471](#), [472](#), and [473](#) (relating to counterfeiting), section [659](#) (relating to theft from interstate shipment) if the act indictable under section [659](#) is felonious, section [664](#) (relating to embezzlement from pension and welfare funds), sections 891–894 (relating to extortionate credit transactions), section [1028](#) (relating to fraud and related activity in connection with identification documents), section [1029](#) (relating to fraud and related activity in connection with access devices), section [1084](#) (relating to the transmission of gambling information), section [1341](#) (relating to mail fraud), section [1343](#) (relating to wire fraud), section [1344](#) (relating to financial institution fraud), section [1351](#) (relating to fraud in foreign labor contracting), section [1425](#) (relating to the procurement of citizenship or nationalization unlawfully), section [1426](#) (relating to the reproduction of naturalization or citizenship papers), section [1427](#) (relating to the sale of naturalization or citizenship papers), sections 1461–1465 (relating to obscene matter), section [1503](#) (relating to obstruction of justice), section [1510](#) (relating to obstruction of criminal investigations), section [1511](#) (relating to the obstruction of State or local law enforcement), section [1512](#) (relating to tampering with a witness, victim, or an informant), section [1513](#) (relating to retaliating against a witness, victim, or an informant), section [1542](#) (relating to false statement in application and use of passport), section [1543](#) (relating to forgery or false use of passport), section [1544](#) (relating to misuse of passport), section [1546](#) (relating to fraud and misuse of visas, permits, and other documents), sections 1581–1592 (relating to peonage, slavery, and trafficking in persons)., ^[1] section [1951](#) (relating to interference with commerce, robbery, or extortion), section [1952](#) (relating to racketeering), section [1953](#) (relating to interstate transportation of wagering paraphernalia), section [1954](#) (relating to unlawful welfare fund payments), section [1955](#) (relating to the prohibition of illegal gambling businesses), section [1956](#) (relating to the laundering of monetary instruments), section [1957](#) (relating to engaging in monetary transactions in property derived from specified unlawful activity), section [1958](#) (relating to use of interstate commerce facilities in the commission of murder-for-hire), section [1960](#) (relating to illegal money transmitters), sections [2251](#), [2251A](#), [2252](#), and [2260](#) (relating to sexual exploitation of children), sections [2312](#) and [2313](#) (relating to interstate transportation of stolen motor vehicles), sections [2314](#) and [2315](#) (relating to interstate transportation of stolen property), section [2318](#) (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audio-visual works), section [2319](#) (relating to criminal infringement of a copyright), section [2319A](#) (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section [2320](#) (relating to trafficking in goods or services bearing counterfeit marks), section [2321](#)



(relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341–2346 (relating to trafficking in contraband cigarettes), sections 2421–24 (relating to white slave traffic), sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section [831](#) (relating to nuclear materials),

(C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labour organizations) or section [501 \(c\)](#) (relating to embezzlement from union funds),

(D) any offense involving fraud connected with a case under title 11 (except a case under section [157](#) of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States,

(E) any act which is indictable under the Currency and Foreign Transactions Reporting Act,

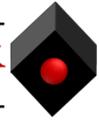
(F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or

(G) any act that is indictable under any provision listed in section [2332b \(g\)\(5\)\(B\)](#)

18 U.S. Code Chapter 96 - RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section [2](#), title [18](#), United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an 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.



(c) 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.

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

Peter of England

on behalf of humanity and WeRe Bank and ReMembers everywhere.

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