IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

In the Matter of Civil RICO actions filed in the United States District Court for the District of Hawaii Pursuant to 18 U.S.C. § 1961, et seq.	)

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

MAY 30 1991

at 1 o'clock and — min. P M.
WALTER A.Y.H. CHINN, CLERK

ORDER REQUIRING RICO CASE STATEMENT

Within the past several months, the court has observed a number of actions filed in this court based in whole or in part on the Racketeer Influenced and Corrupt Organizations Act ("RICO") codified at 18 U.S.C. § 1961 et seq. Such claims tend to expand the scope of a given case, increase discovery, and prevent possible settlement of litigation. This order is not intended to minimize valid claims or to render their prosecution more difficult. Rather, it is intended to assist the parties and the court in separating those claims which are arguably meritorious from those which are patently not.

Therefore, it is hereby ordered as follows:

Plaintiffs shall file, within thirty (30) days of the filing of a complaint which states a RICO cause of action, a RICO case statement. This statement shall include facts upon which plaintiffs rely to initiate their RICO claims, as a result of the "reasonable inquiry" required by Fed. R. Civ. P. 11. In particular, this statement shall be in a form using the numbers and letters set forth in the form entitled "RICO Case Statement,"

available for inspection and copying in the Office of the Clerk of the United States District Court for the District of Hawaii, and shall state in detail and with specificity the information requested in that form.

Counsel is hereby ORDERED to serve a copy of the RICO Case Statement on all parties.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, May 30, 1991.

CHIEF UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT JUDGE

SENIOR UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

	)	CIVIL NO.
	)	
	)	
Plaintiff(s),	)	
	)	
vs.	)	
	)	
	)	
	)	
	)	
	)	
	)	
Defendant(s).	)	
	)	

RICO CASE STATEMENT

1. State whether the alleged unlawful conduct is in violation of 18 U.S.C. §§ 1962(a), (b), (c), and/or (d).

2. List the defendants and state the alleged misconduct and basis of liability of each defendant.

3. List alleged wrongdoers, other than the defendants listed above, and state the alleged misconduct of each wrongdoer.

4. List the alleged victims and state how each victim was allegedly injured.

5. Describe in detail the pattern of racketeering activities or collection of unlawful debts alleged for each RICO claim. The description of the pattern of racketeering shall include the following information:

a. List the alleged predicate acts and the specific statutes that were allegedly violated;

b. Provide the date of each predicate act, the participants in each predicate act, and a description of the facts constituting each predicate act;

c. If the RICO claim is based on the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities, the "circumstances constituting fraud or mistake shall be stated with particularity." Fed. R. Civ. P. 9(b). Identify the time, place and sub stance of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made;

d. State whether there has been a criminal conviction for violation of any predicate act;

e. State whether civil litigation has resulted in a judgment with regard to any predicate act;

f. Describe how the predicate act forms a "pattern of racketeering activity;" and

g. State whether the alleged predicate acts relate to each other as part of a common plan. If so, describe the alleged relationship and common plan in detail.

6. Describe in detail the alleged "enterprise" for each RICO claim. A description of the enterprise shall stat the names of the individuals, partnerships, corporations, associations, or other legal entities, which allegedly constitute the enterprise; describe the structure, purpose, function and course of conduct of the enterprise; state whether any defendants are employees, officers or directors of the alleged enterprise;

state whether any defendants are associated with the alleged enterprise; state whether you are alleging that the defendants are individuals or entities separate from the alleged enterprise or that the defendants are the enterprise itself, or members of the enterprise; and if any defendants are alleged to be the enterprise itself, or members of the enterprise, explain whether such defendants are perpetrators, passive instruments, or victims of the alleged racketeering activity.

7. State and describe in detail whether you are alleging that the pattern of racketeering activity and the enterprise are separate or have merged into one entity.

8. Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual daily activities of the enterprise, if at all.

9. Describe what benefits, if any, the alleged enterprise receives from the alleged pattern of racketeering.

10. Describe the effect of the activities of the enterprise on interstate or foreign commerce.

11. If the complaint alleges a violation of 18 U.S.C. § 1962(a), state who received the income derived from the pattern of racketeering activity or through the collection of unlawful debt; and describe the use or investment of such income.

12. If the complaint alleges a violation of 18 U.S.C. § 1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.

13. If the complaint alleges a violation of 18 U.S.C. § 1962(c), state who is employed by or associated with the alleged enterprise, and state whether the same entity is both the liable "person" and the "enterprise" under § 1962(c).

14. If the complaint alleges a violation of 18 U.S.C. § 1962(d), describe in detail the facts showing the existence of the alleged conspiracy.

15. Describe the alleged injury to business or property.

16. Describe the direct causal relationship between the alleged injury and the violation of the RICO statute.

17. List the damages sustained by reason of the violation of § 1962, indicating the amount for which each defendant is allegedly liable.

18. List all other federal causes of action, if any, and provide the relevant statute numbers.

19. List all pendent state claims, if any.

20. Provide any additional information that you feel would be helpful to the court in processing your RICO claims.

21. If you cannot presently provide certain information requested above due to lack of discovery, set forth with specificity:

a. The fact(s) presently unknown but which you believe you can prove;

b. The nature of discovery you plan to undertake to develop such facts;

c. Of whom you intend to take discovery; and

d. When you intend to commence and/or complete discovery.

DATED: Honolulu, Hawaii, _____.

_____

Attorney for Plaintiff(s)