Supreme Court of the United States
Robert G. **HOLMES**, Jr., Petitioner
v.
SECURITIES INVESTOR PROTECTION CORPORATION et al.

No. 90–727.
Argued Nov. 13, 1991.
Decided March 24, 1992.

***261** Justice SOUTER delivered the opinion of the Court.

Respondent Securities Investor Protection Corporation (SIPC) alleges that petitioner Robert G. Holmes, Jr., conspired in a stock-manipulation scheme that disabled two broker-dealers from meeting obligations to customers, thus triggering SIPC's statutory duty to advance funds to reimburse the customers. The issue is whether SIPC can recover from Holmes under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961–1968 (1988 ed. and Supp. II). We hold that it cannot.

I
A

The Securities Investor Protection Act of 1970 (SIPA), 84 Stat. 1636, as amended, 15 U.S.C. §§ 78aaa–78*lll*, authorized the formation of SIPC, a private nonprofit corporation, § 78ccc(a)(1), of which most broker-dealers registered under § 15(b) of the Securities Exchange Act of 1934, § 78o(b), are required to be "members," § 78ccc(a)(2)(A). Whenever SIPC determines that a member "has failed or is in danger of failing to meet its obligations to customers," and finds certain other statutory conditions satisfied, it may ask for a "protective decree" in federal district court. § 78eee(a)(3). Once a court finds grounds for granting such a petition, § 78eee(b)(1), it must appoint a trustee charged with liquidating the member's business, § 78eee(b)(3).

After returning all securities registered in specific customers' names, §§ 78fff–2(c)(2); 78fff(a)(1)(A); 78*lll* (3), the trustee must pool securities not so registered together with cash found in customers' accounts and divide this pool ratably to satisfy customers' claims, §§ 78fff–2(b); 78fff(a)(1)(B).[FN1] To ***262** the extent the pool of customer property is inadequate, SIPC must advance up to $500,000 per customer [FN2] to the trustee for use in satisfying those claims. § 78fff–3(a).[FN3]

FN1. Such "customer property," see 15 U.S.C. § 78*lll* (4), does not become part of the debtor's general estate until all customers' and SIPC's claims have been paid. See § 78fff–2(c)(1). That is to say, the claim of a general creditor of the broker-dealer (say, its landlord) is subordinated to claims of customers and SIPC.

FN2. With respect to a customer's cash on deposit with the broker-dealer, SIPC is not obligated to advance more than $100,000 per customer. § 78fff–3(a)(1).

FN3. To cover these advances, SIPA provides for the establishment of a SIPC Fund. § 78ddd(a)(1). SIPC may replenish the fund from time to time by levying assessments, § 78ddd(c)(2), which members are legally obligated to pay, § 78jjj(a).

B

On July 24, 1981, SIPC sought a decree from the United States District Court for the Southern District of Florida to protect the customers of First State Securities Corporation (FSSC), a broker-dealer and SIPC member. Three days later, it petitioned the United States District Court for the Central District of California, seeking to protect the customers of Joseph Sebag, Inc. (Sebag), also a broker-dealer and SIPC member. Each court issued the requested decree and appointed a trustee, who proceeded to liquidate the broker-dealer.

****1315** Two years later, SIPC and the two trustees brought this suit in the United States District Court for the Central District of California, accusing some 75 defendants of conspiracy in a fraudulent scheme leading to the demise of FSSC and Sebag.

Insofar as they are relevant here, the allegations were that, from 1964 through July 1981, the defendants manipulated stock of six companies by making unduly optimistic statements about their prospects and by continually selling small numbers of shares to create the appearance of a liquid market; that the broker-dealers bought substantial amounts of the stock with their own funds; that the market's perception of the fraud in July 1981 sent the stocks plummeting; ***263** and that this decline caused the broker-dealers' financial difficulties resulting in their eventual liquidation and SIPC's advance of nearly $13 million to cover their customers' claims. The complaint described Holmes' participation in the scheme by alleging that he made false statements about the prospects of one of the six companies, Aero Systems, Inc., of which he was an officer, director, and major shareholder; and that over an extended period he sold small amounts of stock in one of the other six companies, the Bunnington Corporation, to simulate a liquid market. The conspirators were said to have violated § 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b), Securities and Exchange Commission (SEC) Rule 10b–5, 17 CFR § 240.10b–5 (1991), and the mail and wire fraud statutes, 18 U.S.C. §§ 1341, 1343 (1988 ed., Supp. II). Finally, the complaint concluded that their acts amounted to a "pattern of racketeering activity" within the meaning of the RICO statute, 18 U.S.C. §§ 1962, 1961(1), and (5) (1988 ed. and Supp. II), so as to entitle the plaintiffs to recover treble damages, § 1964(c).

After some five years of litigation over other issues,[FN4] the District Court entered summary judgment for Holmes on the RICO claims, ruling that SIPC "does not meet the 'purchaser-seller' requirements for standing to assert RICO claims which are predicated upon violation of Section 10(b) and Rule 10b–5," App. to Pet. for Cert. 45a,[FN5] and that neither ***264** SIPC nor the trustees had satisfied the "proximate cause requirement under RICO," *id.,* at 39a; see *id.,* at 37a. Although SIPC's claims against many other defendants remained pending, the District Court under Federal Rule of Civil Procedure 54(b) entered a partial judgment for Holmes, immediately appealable. SIPC and the trustees appealed.

FN4. See generally *Securities Investor Protection Corporation v. Vigman,* 803 F.2d 1513 (CA9 1986) (*Vigman II*); *Securities Investor Protection Corporation v. Vigman,* 764 F.2d 1309 (CA9 1985) (*Vigman I*).

FN5. Two years earlier, the District Court had dismissed SIPC's non-RICO securities action on the ground that SIPC's claim to have been subrogated to the rights only of those customers who did not purchase any of the manipulated securities rendered the action a failure under the so-called *Birnbaum* test, which requires a plaintiff to be a purchaser or seller of a security. See *Blue Chip Stamps v. Manor Drug Stores,* 421 U.S. 723, 95 S.Ct. 1917, 44 L.Ed.2d 539 (1975); *Birnbaum v. Newport Steel Corp.,* 193 F.2d 461 (CA2), cert. denied, 343 U.S. 956, 72 S.Ct. 1051, 96 L.Ed. 1356 (1952). The Court of Appeals for the Ninth Circuit reversed that ruling, *Vigman II, supra,* holding that the District Court should have permitted SIPC to proceed under the *Birnbaum* rule to the extent that FSSC and Sebag had made unauthorized use of those customers' assets to buy manipulated securities, as SIPC had alleged they had. *Id.,* at 1519–1520. On remand, after discovery, the District Court ruled that no genuine issue of material fact existed on the question of unauthorized use and that Holmes was entitled to summary judgment. App. to Pet. for Cert. 27a. SIPC has not appealed that ruling.

The United States Court of Appeals for the Ninth Circuit reversed and remanded after rejecting both of the District Court's grounds. *Securities Investor Protection Corporation v. Vigman,* 908 F.2d 1461 (1990). The Court of Appeals held first that, whereas a purchase or sale of a security is necessary for entitlement to sue on the implied right of action recognized under § 10(b) and Rule 10b–5, see *Blue Chip Stamps v. Manor Drug Stores,* 421 U.S. 723, 95 S.Ct. 1917, 44 L.Ed.2d 539 (1975), the cause of action expressly provided by § 1964(c) of RICO imposes no such requirement limiting SIPC's standing. 908 F.2d, at 1465–1467. Second, ****1316** the appeals court held the finding of no proximate cause to be error, the result of a mistaken focus on the causal relation between SIPC's injury and the acts of Holmes alone; since Holmes could be held responsible for the acts of all his co-conspirators, the Court of Appeals explained, the District Court should have looked to the causal relation between SIPC's injury and the acts of

all conspirators. *Id.*, at 1467–1469.[FN6]

FN6. For purposes of this decision, we will assume without deciding that the Court of Appeals correctly held that Holmes can be held responsible for the acts of his co-conspirators.

Holmes' ensuing petition to this Court for certiorari presented two issues, whether SIPC had a right to sue under ***265** RICO,[FN7] and whether Holmes could be held responsible for the actions of his co-conspirators. We granted the petition on the former issue alone, 499 U.S. 974, 111 S.Ct. 1618, 113 L.Ed.2d 716 (1991), and now reverse.[FN8]

FN7. The petition phrased the question as follows: "Whether a party which was neither a purchaser nor a seller of securities, and for that reason lacked standing to sue under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder, is free of that limitation on standing when presenting essentially the same claims under the Racketeer Influenced and Corrupt Organizations Act ('RICO')." Pet. for Cert. i.

FN8. Holmes does not contest the trustees' right to sue under § 1964(c), and they took no part in the proceedings before this Court after we granted certiorari on the first question alone.

II

A

RICO's provision for civil actions reads that

"[a]ny person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee." 18 U.S.C. § 1964(c).

This language can, of course, be read to mean that a plaintiff is injured "by reason of" a RICO violation, and therefore may recover, simply on showing that the defendant violated § 1962,[FN9] the plaintiff was injured, and the defendant's violation***266** was a "but for" cause of plaintiff's injury. Cf. *Associated General Contractors of Cal., Inc. v. Carpenters*, 459 U.S. 519, 529, 103 S.Ct. 897, 903, 74 L.Ed.2d 723 (1983). This construction is hardly compelled, however, and the very unlikelihood that Congress meant to allow all factually injured plaintiffs to recover [FN10] persuades us that RICO should not get such an expansive ****1317** reading.[FN11] Not even SIPC seriously argues otherwise.[FN12]

FN9. Section 1962 lists "Prohibited activities." Before this Court, SIPC invokes only subsections (c) and (d). See Brief for Respondent 15, and n. 58. Subsection (c) makes it "unlawful for any person ... associated with any enterprise ... to ... participate ... in the conduct of such enterprise's affairs through a pattern of racketeering activity...." Insofar as it is relevant here, subsection (d) makes it unlawful to conspire to violate subsection (c). The RICO statute defines "pattern of racketeering activity" as "requir[ing] at least two acts of racketeering activity[,] ... the last of which occurred within ten years ... after the commission of a prior act of racketeering activity." § 1961(5). The predicate offenses here at issue are listed in 18 U.S.C. §§ 1961(1)(B) and (D) (1988 ed., Supp. II), which define "racketeering activity" to include "any act which is indictable under ... section 1341 (relating to mail fraud), [or] section 1343 (relating to wire fraud), ... or ... any offense involving ... fraud in the sale of securities...."

FN10. "In a philosophical sense, the consequences of an act go forward to eternity, and the causes of an event go back to the dawn of human events, and beyond. But any attempt to impose responsibility upon such a basis would result in infinite liability for all wrongful acts, and would 'set society on edge and fill the courts with endless litigation.' " W. Keeton, D. Dobbs, R. Keeton, & D. Owen, Prosser and Keeton on Law of Torts § 41, p. 264 (5th ed. 1984) (quoting *North v. Johnson*, 58 Minn. 242, 245, 59 N.W. 1012 (1894)). As we put it in the antitrust context, "An antitrust violation may be expected to cause ripples of harm to flow through the Nation's economy; but despite the broad wording of § 4 [of the Clayton

Act, 15 U.S.C. § 15,] there is a point beyond which the wrongdoer should not be held liable." *Blue Shield of Virginia v. McCready,* 457 U.S. 465, 476–477, 102 S.Ct. 2540, 2546–2547, 73 L.Ed.2d 149 (1982) (internal quotation marks and citation omitted).

FN11. The Courts of Appeals have overwhelmingly held that not mere factual, but proximate, causation is required. See, *e.g., Pelletier v. Zweifel,* 921 F.2d 1465, 1499–1500 (CA11), cert. denied, 502 U.S. 855, 112 S.Ct. 167, 116 L.Ed.2d 131 (1991); *Ocean Energy II, Inc. v. Alexander & Alexander, Inc.,* 868 F.2d 740, 744 (CA5 1989); *Brandenburg v. Seidel,* 859 F.2d 1179, 1189 (CA4 1988); *Sperber v. Boesky,* 849 F.2d 60 (CA2 1988); *Haroco, Inc. v. American National Bank & Trust Co. of Chicago,* 747 F.2d 384, 398 (CA7 1984), aff'd, 473 U.S. 606, 105 S.Ct. 3291, 87 L.Ed.2d 437 (1985) (*per curiam*). Indeed, the court below recognized a proximate-cause requirement. See *Securities Investor Protection Corporation v. Vigman,* 908 F.2d 1461, 1468 (CA9 1990).

FN12. SIPC does say that the question whether its claim must, and as alleged may, satisfy the standard of proximate causation is not within the question on which we granted certiorari. See Brief for Respondent 3, 33, 34, 38–39. However, the proximate-cause issue is "fairly included" within that question. See this Court's Rule 14.1(a). SIPC's own restatement of the question presented reads: "Was the Ninth Circuit correct when it held that SIPC need not be a 'purchaser or seller' of securities to sue under Section 1964(c), which provides that 'any person' may sue for 'injury to his business or property' 'by reason of' 'any offense ... involving fraud in the sale of securities ... punishable under any law of the United States,' wire fraud, or mail fraud in violation of Section 1962?" Brief for Respondent i (ellipses in original). By thus restating the question presented (as was its right to do, see this Court's Rule 24.2), SIPC properly set the enquiry in the key of the language of § 1964(c), which we hold today carries a proximate-cause requirement within it. What is more, SIPC briefed the proximate-cause issue, see Brief for Respondent 34–36, 38–39, and announced at oral argument that it recognized the Court might reach it, see Tr. of Oral Arg. 31.

***267** The key to the better interpretation lies in some statutory history. We have repeatedly observed, see *Agency Holding Corp. v. Malley–Duff & Associates, Inc.,* 483 U.S. 143, 150–151, 107 S.Ct. 2759, 2764–2765, 97 L.Ed.2d 121 (1987); *Shearson/American Express Inc. v. McMahon,* 482 U.S. 220, 241, 107 S.Ct. 2332, 2345, 96 L.Ed.2d 185 (1987); *Sedima, S.P.R.L. v. Imrex Co.,* 473 U.S. 479, 489, 105 S.Ct. 3275, 3281, 87 L.Ed.2d 346 (1985), that Congress modeled § 1964(c) on the civil-action provision of the federal antitrust laws, § 4 of the Clayton Act, which reads in relevant part that

> "any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor ... and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee." 15 U.S.C. § 15.

In *Associated General Contractors, supra,* we discussed how Congress enacted § 4 in 1914 with language borrowed from § 7 of the Sherman Act, passed 24 years earlier.[FN13] Before 1914, lower federal courts had read § 7 to incorporate common-law principles of proximate causation, 459 U.S., at 533–534, and n. 29, 103 S.Ct., at 905–906, and n. 29 (citing *Loeb v. Eastman Kodak Co.,* 183 F. 704 (CA3 1910); *Ames v. American Telephone & Telegraph Co.,* 166 F. 820 (CC 1909)), and we reasoned, as many lower federal courts had done before us, see ***268***Associated General Contractors, supra,* 459 U.S., at 536, n. 33, 103 S.Ct., at 907, n. 33 (citing cases), [FN14] that congressional use of the § 7 language in § 4 presumably carried the intention to adopt "the judicial gloss that avoided a simple literal interpretation," 459 U.S., at 534, 103 S.Ct., at 906. Thus, we held that a plaintiff's right to sue under § 4 required a showing that the defendant's violation not only was a "but for" cause of his injury, but was the proximate cause as well.

FN13. When Congress enacted § 4 of the Clayton Act, § 7 of the Sherman Act read in

relevant part:

> "Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act, may sue...." 26 Stat. 210.

FN14. These lower courts had so held well before 1970, when Congress passed RICO.

The reasoning applies just as readily to § 1964(c). We may fairly credit the 91st Congress, which enacted RICO, with knowing the interpretation federal courts had given the words earlier Congresses had used ****1318** first in § 7 of the Sherman Act, and later in the Clayton Act's § 4. See *Cannon v. University of Chicago,* 441 U.S. 677, 696–698, 99 S.Ct. 1946, 1957–1958, 60 L.Ed.2d 560 (1979). It used the same words, and we can only assume it intended them to have the same meaning that courts had already given them. See, *e.g., Oscar Mayer & Co. v. Evans,* 441 U.S. 750, 756, 99 S.Ct. 2066, 2071, 60 L.Ed.2d 609 (1979); *Northcross v. Memphis Bd. of Ed.,* 412 U.S. 427, 428, 93 S.Ct. 2201, 2202, 37 L.Ed.2d 48 (1973). Proximate cause is thus required.

B

Here we use "proximate cause" to label generically the judicial tools used to limit a person's responsibility for the consequences of that person's own acts. At bottom, the notion of proximate cause reflects "ideas of what justice demands, or of what is administratively possible and convenient." W. Keeton, D. Dobbs, R. Keeton, & D. Owen, Prosser and Keeton on Law of Torts § 41, p. 264 (5th ed. 1984). Accordingly, among the many shapes this concept took at common law, see *Associated General Contractors, supra,* 459 U.S., at 532–533, 103 S.Ct., at 905–906, was a demand for some direct relation between the injury asserted and the injurious conduct alleged. Thus, a plaintiff who complained of harm flowing merely from the misfortunes visited upon a third person by the defendant's acts was generally said to stand at too remote a distance to ***269** recover. See, *e.g.,* 1 J. Sutherland, Law of Damages 55–56 (1882).

Although such directness of relationship is not the sole requirement of Clayton Act causation,[FN15] it has been one of its central elements, *Associated General Contractors,* 459 U.S., at 540, 103 S.Ct., at 909, for a variety of reasons. First, the less direct an injury is, the more difficult it becomes to ascertain the amount of a plaintiff's damages attributable to the violation, as distinct from other, independent, factors. *Id.,* at 542–543, 103 S.Ct., at 910–911. Second, quite apart from problems of proving factual causation, recognizing claims of the indirectly injured would force courts to adopt complicated rules apportioning damages among plaintiffs removed at different levels of injury from the violative acts, to obviate the risk of multiple recoveries. *Id.,* at 543–544, 103 S.Ct., at 911–912; *Blue Shield of Virginia v. McCready,* 457 U.S. 465, 473–475, 102 S.Ct. 2540, 2545–2546, 73 L.Ed.2d 149 (1982); *Hawaii v. Standard Oil Co. of Cal.,* 405 U.S. 251, 264, 92 S.Ct. 885, 892, 31 L.Ed.2d 184 (1972). And, finally, the need to grapple with these problems is simply unjustified by the general interest in deterring injurious conduct, since directly injured victims can generally be counted on to vindicate the law as ***270** private attorneys general, without any of the problems attendant upon suits by plaintiffs injured more remotely.****1319** *Associated General Contractors, supra,* 459 U.S., at 541–542, 103 S.Ct., at 910–911.

FN15. We have sometimes discussed the requirement that a § 4 plaintiff has suffered "antitrust injury" as a component of the proximate-cause enquiry. See *Associated General Contractors of Cal., Inc. v. Carpenters,* 459 U.S. 519, 538, 103 S.Ct. 897, 908, 74 L.Ed.2d 723 (1983); *Blue Shield of Virginia v. McCready,* 457 U.S., at 481–484, 102 S.Ct., at 2549–2551, 73 L.Ed.2d 149 (1982). We need not discuss it here, however, since "antitrust injury" has no analogue in the RICO setting. See *Sedima, S.P.R.L. v. Imrex Co.,* 473 U.S. 479, 495–497, 105 S.Ct. 3275, 3284–3285, 87 L.Ed.2d 346 (1985).

> For the same reason, there is no merit in SIPC's reliance on legislative history to the effect that it would be inappropriate to have a "private litigant ... contend with a body of precedent—appropriate in a purely antitrust context—setting strict requirements on questions such as 'standing to sue' and 'proximate cause.' " 115 Cong.Rec. 6995 (1969) (American Bar

> Association comments on S. 2048). That statement is rightly understood to refer only to the applicability of the concept of "antitrust injury" to RICO, which we rejected in *Sedima, supra,* at 495–497, 105 S.Ct., at 3284–3285. See *Brandenburg v. Seidel,* 859 F.2d, at 1189, n. 11. Besides, even if we were to read this statement to say what SIPC says it means, it would not amount to more than background noise drowned out by the statutory language.

We will point out in Part III–A below that the facts of the instant case show how these reasons apply with equal force to suits under § 1964(c).

III

As we understand SIPC's argument, it claims entitlement to recover, first, because it is subrogated to the rights of those customers of the broker-dealers who did not purchase manipulated securities, and, second, because a SIPA provision gives it an independent right to sue. The first claim fails because the conspirators' conduct did not proximately cause the nonpurchasing customers' injury, the second because the provision relied on gives SIPC no right to sue for damages.

A

As a threshold matter, SIPC's theory of subrogation is fraught with unanswered questions. In suing Holmes, SIPC does not rest its claimed subrogation to the rights of the broker-dealers' customers on any provision of SIPA. See Brief for Respondent 38, and n. 181. SIPC assumes that SIPA provides for subrogation to the customers' claims against the failed broker-dealers, see 15 U.S.C. §§ 78fff–3(a), 78fff–4(c); see also § 78fff–2(c)(1)(C); see generally *Mishkin v. Peat, Marwick, Mitchell & Co.,* 744 F.Supp. 531, 556–557 (S.D.N.Y.1990), but not against third parties like Holmes. As against him, SIPC relies rather on "common law rights of subrogation" for what it describes as "its money paid to customers for customer claims against third parties." Brief for Respondent 38 (footnote omitted). At oral argument in this Court, SIPC narrowed its subrogation argument to cover only the rights of customers who never purchased manipulated***271** securities. Tr. of Oral Arg. 29.[FN16] But SIPC stops there, leaving us to guess at the nature of the "common law rights of subrogation" that it claims, and failing to tell us whether they derive from federal or state common law, or, if the latter, from common law of which State.[FN17] Nor does SIPC explain why it declines to assert the rights of customers who bought manipulated securities.[FN18]

> FN16. And, SIPC made no allegation that any of these customers failed to do so in reliance on acts or omissions of the conspirators.

> FN17. There is support for the proposition that SIPC can assert state-law subrogation rights against third parties. See *Redington v. Touche Ross & Co.,* 592 F.2d 617, 624 (CA2 1978), rev'd on other grounds, 442 U.S. 560, 99 S.Ct. 2479, 61 L.Ed.2d 82 (1979). We express no opinion on this issue.

> FN18. The record reveals that those customers have brought their own suit against the conspirators.

It is not these questions, however, that stymie SIPC's subrogation claim, for even assuming, *arguendo,* that it may stand in the shoes of nonpurchasing customers, the link is too remote between the stock manipulation alleged and the customers' harm, being purely contingent on the harm suffered by the broker-dealers. That is, the conspirators have allegedly injured these customers only insofar as the stock manipulation first injured the broker-dealers and left them without the wherewithal to pay customers' claims. Although the customers' claims are senior (in recourse to "customer property") to those of the broker-dealers' general creditors, see § 78fff–2(c)(1), the causes of their respective injuries are the same: The broker-dealers simply cannot pay their bills, and only that intervening insolvency connects the conspirators' acts to the losses suffered by the nonpurchasing customers and general creditors.

As we said, however, in *Associated General Contractors,* quoting Justice Holmes, " 'The general tendency of the law, in regard to damages at least, is not to go beyond the first step.' " 459 U.S., at 534, 103 S.Ct., at 906 (quoting ***272**1320***Southern Pacific Co. v. Darnell–Taenzer Lumber Co.,* 245 U.S. 531, 533, 38 S.Ct. 186, 186, 62 L.Ed. 451 (1918)),[FN19] and the reasons that supported conforming Clayton Act causation to the general tendency apply just as readily to the present facts, underscoring

the obvious congressional adoption of the Clayton Act direct-injury limitation among the requirements of § 1964(c).[FN20] If the nonpurchasing customers were ***273** allowed to sue, the district court would first need to determine the extent to which their inability to collect from the broker-dealers was the result of the alleged conspiracy to manipulate, as opposed to, say, the broker-dealers' poor business practices or their failures to anticipate developments in the financial markets. Assuming that an appropriate assessment of factual causation could be made out, the district court would then have to find some way to apportion the possible respective recoveries by the broker-dealers and the customers, who would otherwise each be entitled to recover the full treble damages. Finally, the law would be shouldering these difficulties despite the fact that those directly injured, the broker-dealers, could be counted on to bring suit for the law's vindication. As noted above, the broker-dealers have in fact sued in this case, in the persons of their SIPA trustees appointed on account of their insolvency.[FN21] ***274** Indeed, the insolvency of the victim directly injured adds a further concern to those already expressed,****1321** since a suit by an indirectly injured victim could be an attempt to circumvent the relative priority its claim would have in the directly injured victim's liquidation proceedings. See *Mid–State Fertilizer Co. v. Exchange National Bank of Chicago,* 877 F.2d 1333, 1336 (CA7 1989).

FN19. SIPC tries to avoid foundering on the rule that creditors generally may not sue for injury affecting their debtors' solvency by arguing that those customers that owned manipulated securities themselves were victims of Holmes' fraud. See Brief for Respondent 39, n. 185 (citing *Ashland Oil, Inc. v. Arnett,* 875 F.2d 1271, 1280 (CA7 1989); *Ocean Energy,* 868 F.2d, at 744–747; *Bankers Trust Co. v. Rhoades,* 859 F.2d 1096, 1100–1101 (CA2 1988), cert. denied, 490 U.S. 1007, 109 S.Ct. 1643, 104 L.Ed.2d 158 (1989)). While that may well be true, since SIPC does not claim subrogation to the rights of the customers that purchased manipulated securities, see *supra,* at 1319, it gains nothing by the point.

We further note that SIPC alleged in the courts below that, in late May 1981, Joseph Lugo, an officer of FSSC and one of the alleged conspirators, parked manipulated stock in the accounts of customers, among them Holmes, who actively participated in the parking transaction involving his account. See Statement of Background and Facts, 1 App. 223–225. Lugo "sold" securities owned by FSSC to customers at market price and "bought" back the same securities some days later at the same price plus interest. Under applicable regulations, a broker-dealer must discount the stock it holds in its own account, see 17 CFR § 240.15c3–1(c)(2)(iv)(F)(1)(vi) (1991), and the sham transactions allowed FSSC to avoid the discount. But for the parking transactions, FSSC would allegedly have failed capital requirements sooner; would have been shut down by regulators; and would not have dragged Sebag with it in its demise. 1 App. 231. Thus, their customers would have been injured to a lesser extent. *Id.,* at 229, 231. We do not rule out that, if, by engaging in the parking transactions, the conspirators committed mail fraud, wire fraud, or "fraud in the sale of securities," see 18 U.S.C. §§ 1961(1)(B) and (D) (1988 ed., Supp. I), the broker-dealers' customers might be proximately injured by these offenses. See, *e.g., Taffet v. Southern Co.,* 930 F.2d 847, 856–857 (CA11 1991); *County of Suffolk v. Long Island Lighting Co.,* 907 F.2d 1295, 1311–1312 (CA2 1990). However this may be, SIPC in its brief on the merits places exclusive reliance on a manipulation theory and is completely silent about the alleged parking scheme.

FN20. As we said in *Associated General Contractors,* "the infinite variety of claims that may arise make it virtually impossible to announce a black-letter rule that will dictate the result in every case." 459 U.S., at 536, 103 S.Ct., at 908 (footnote omitted). Thus, our use of the term "direct" should merely be understood as a reference to the proximate-cause enquiry that is informed by the concerns set out in the text. We do not necessarily use it in the same sense as courts before us have and intimate no opinion on results they reached. See, *e.g., Sedima,* 473

U.S., at 497, n. 15, 105 S.Ct., at 3285, n. 15; *id.* 459 U.S., at 522, 103 S.Ct., at 900 (Marshall, J., dissenting); *Pelletier,* 921 F.2d, at 1499–1500; *Ocean Energy, supra.*

FN21. If the trustees had not brought suit, SIPC likely could have forced their hands. To the extent consistent with SIPA, bankruptcy principles apply to liquidations under that statute. See § 78fff(b); see also § 78fff–1(b) (to extent consistent with SIPA, SIPA trustee has same duties as trustee under Chapter 7 of Bankruptcy Code); § 78eee(b)(2)(A)(iii) (to extent consistent with SIPA, court supervising SIPA liquidation has same powers and duties as bankruptcy court). And, it is generally held that a creditor can, by petitioning the bankruptcy court for an order to that effect, compel the trustee to institute suit against a third party. See *In re Automated Business Systems, Inc.,* 642 F.2d 200, 201 (CA6 1981). As a practical matter, it is very unlikely that SIPC will have to petition a court for such an order, given its influence over SIPA trustees. See § 78eee(b)(3) (court must appoint as trustee "such perso [n] as SIPC, in its sole discretion, specifies," which in certain circumstances may be SIPC itself); § 78eee(b)(5)(C) (SIPC's recommendation to court on trustee's compensation is entitled to "considerable reliance" and is, under certain circumstances, binding).

As against the force of these considerations of history and policy, SIPC's reliance on the congressional admonition that RICO be "liberally construed to effectuate its remedial purposes," § 904(a), 84 Stat. 947, does not deflect our analysis. There is, for that matter, nothing illiberal in our construction: We hold not that RICO cannot serve to right the conspirators' wrongs, but merely that the nonpurchasing customers, or SIPC in their stead, are not proper plaintiffs. Indeed, we fear that RICO's remedial purposes would more probably be hobbled than helped by SIPC's version of liberal construction: Allowing suits by those injured only indirectly would open the door to "massive and complex damages litigation[, which would] not only burde [n] the courts, but [would] also undermin[e] the effectiveness of treble-damages suits." *Associated General Contractors,* 459 U.S., at 545, 103 S.Ct., at 912.

In sum, subrogation to the rights of the manipulation conspiracy's secondary victims does, and should, run afoul of proximate-causation standards, and SIPC must wait on the outcome of the trustees' suit. If they recover from Holmes, SIPC may share according to the priority SIPA gives its claim. See 15 U.S.C. § 78fff–2(c).

B

SIPC also claims a statutory entitlement to pursue Holmes for funds advanced to the trustees for administering the liquidation proceedings. See Tr. of Oral Arg. 30. Its theory here apparently is not one of subrogation, to which the statute makes no reference in connection with SIPC's obligation ***275** to make such advances. See 15 U.S.C. § 78fff–3(b)(2).[FN22] SIPC relies instead, see Brief for Respondent 37, and n. 180, on this SIPA provision:

FN22. To the extent that SIPC's unexplained remark at oral argument, see Tr. of Oral Arg. 29–30, could be understood to rest its claim for recovery of these advances on a theory of subrogation, it came too late. One looks in vain for any such argument in its brief.

"SIPC participation—SIPC shall be deemed to be a party in interest as to all matters arising in a liquidation proceeding, with the right to be heard on all such matters, and shall be deemed to have intervened with respect to all such matters with the same force and effect as if a petition for such purpose had been allowed by the court." 15 U.S.C. § 78eee(d).

The language is inapposite to the issue here, however. On its face, it simply qualifies SIPC as a proper party in interest in any "matter arising in a liquidation proceeding" as to which it "shall be deemed to have intervened." By extending a right to be heard in a "matter" pending between other parties, however, the statute says nothing about the conditions necessary for SIPC's recovery as a plaintiff. How the provision could be read, either alone or with § 1964(c), to give SIPC a right to sue Holmes for money damages simply eludes us.

IV

Petitioner urges us to go further and decide whether every RICO plaintiff who sues under § 1964(c) and claims securities fraud as a predicate offense must have purchased or sold a security, an issue on which the ****1322** Circuits appear divided.[FN23] We decline to do so. Given what we have said in Parts II ***276** and III, our discussion of the issue would be unnecessary to the resolution of this case. Nor do we think that leaving this question unanswered will deprive the lower courts of much-needed guidance. A review of the conflicting cases shows that all could have been resolved on proximate-causation grounds, and that none involved litigants like those in *Blue Chip Stamps v. Manor Drug Stores,* 421 U.S. 723, 95 S.Ct. 1917, 44 L.Ed.2d 539 (1975), persons who had decided to forgo securities transactions in reliance on misrepresentations. Thus, we think it inopportune to resolve the issue today.

FN23. Compare 908 F.2d, at 1465–1467 (no purchaser-seller rule under RICO); *Warner v. Alexander Grant & Co.,* 828 F.2d 1528, 1530 (CA11 1987) (same), with *International Data Bank, Ltd. v. Zepkin,* 812 F.2d 149, 151–154 (CA4 1987) (RICO plaintiff relying on securities fraud as predicate offense must have been purchaser or seller); *Brannan v. Eisenstein,* 804 F.2d 1041, 1046 (CA8 1986) (same).

V

We hold that, because the alleged conspiracy to manipulate did not proximately cause the injury claimed, SIPC's allegations and the record before us fail to make out a right to sue petitioner under § 1964(c). We reverse the judgment of the Court of Appeals and remand the case for further proceedings consistent with this opinion.

It is so ordered. * * * *

SEPARATE OPINIONS OMITTED