112 F.3d 1339, RICO Bus.Disp.Guide 9271
(Cite as: 112 F.3d 1339)

United States Court of Appeals,
Eighth Circuit.
Paul HANDEEN, Plaintiff-Appellant,
v.
Gregory A. LEMAIRE; Henry Lemaire; Patricia Lemaire, Defendants,
Orlins & Brainerd Law Firm; Richard K. Brainerd; Peter I. Orlins, Defendants-Appellees.

No. 95-3678.
Submitted Oct. 23, 1996.
Decided May 7, 1997.

FLOYD R. GIBSON, Circuit Judge.

Paul Handeen appeals the district court's order granting summary judgment in favor of the Orlins & Brainerd Law Firm and its principals (collectively the "Firm") on his claims under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968 (1994 & Supp. I 1995), and various other provisions of federal and ***1343** Minnesota state law.[FN1] Given the procedural posture of this case, we find ourselves constrained to reverse the district court's dismissal of Handeen's RICO and state law causes of action, but we otherwise affirm.

FN1. The court's order did not dispose of Handeen's claims against Gregory Lemaire and his parents, Henry and Patricia, who were originally named as defendants in the Complaint. Handeen, though, voluntarily dismissed his grounds for relief against the three Lemaires pursuant to a *Pierringer* settlement. *See Pierringer v. Hoger*, 21 Wis.2d 182, 124 N.W.2d 106 (Wis.1963).

I. BACKGROUND

The appeal before us traces its genesis to a series of unfortunate events that has already been the subject of extensive litigation in this Court, *see Handeen v. LeMaire (In re LeMaire)*, 898 F.2d 1346, 1347-48 (8th Cir.1990)(en banc)("*LeMaire II*")(describing underlying factual foundation), *rev'g* 883 F.2d 1373, 1375-76 (8th Cir.1989)(containing further elaboration), and we see no present need to retell that sorry tale. Suffice it to say that Gregory Lemaire (individually referred to as "Gregory" or "Lemaire") set out to execute Handeen on July 9, 1978, and he very nearly succeeded.[FN2] As a result of this intentional deed, Lemaire pleaded guilty to a charge of aggravated assault and spent twenty-seven months in a Minnesota prison. Following his release, Lemaire resumed his graduate studies at the University of Minnesota and in January 1986 received a doctoral degree in, of all things, experimental behavioral pharmacology.

FN2. Lemaire represented himself *pro se* in the instant action, and one of the numerous documents he filed with the district court is a rambling, thirty-one page Answer recounting with chilling detail his version of the events which transpired on that summer day:

> The rifle was a semi-automatic, .22-calibre rifle that I had purchased many years before for the sole purpose of shooting at tin cans with my friends. The rifle was capable of holding 16 bullets.... Prior to the shooting, I had loaded bullets into the gun in the front seat of my car; in checking that a bullet was in the chamber, I had ejected one bullet, which landed on the floor on the passenger's side of the front seat. When I began shooting at Mr. Handeen, it was from the car in which I sat, perhaps 150-200 feet away from him. I then left the car and ran toward him, continuing to shoot. At some point in my approach to him, there were no more bullets left in the gun. I ran back to the car, picked up the single remaining bullet from the floor of the car, placed it in the chamber of the rifle, and ran to Mr. Handeen. At the instant that I came to stand directly over Mr. Handeen, there was no thought involved: I clipped-on the safety mechanism of the rifle and placed it on the roof of Mr. Handeen's car, which was directly adjacent to us. From then on, I agitatedly paced back and forth in the street with raised hands, yelling to Mr. Handeen (who repeatedly attempted to rise), "Stay down![ ] Stay

> down! The ambulance is coming!".... I evidently did fire nine shots with the intent to execute Mr. Handeen; I did not fire the tenth shot, which would have done so.
>
> Gregory Lemaire's Answer at 4. Upon reading Lemaire's submissions to the district court, one comes away with the distinct impression that he considers himself the primary victim in this affair. This is a sentiment we do not share.

Handeen filed a civil suit against Lemaire and obtained a consent judgment in excess of $50,000. Lemaire used funds received from his father to pay an initial lump sum of $3,000 due under the judgment, but he failed to remit any agreed-upon monthly installments. This prompted Handeen to commence garnishment proceedings to collect the balance due him. Lemaire, who was represented by the Firm, filed a Chapter 13 bankruptcy petition shortly thereafter, and the bankruptcy court, over Handeen's objections, approved Lemaire's repayment plan. The district court and a divided panel of this Court affirmed the bankruptcy judge's decision, *see Handeen v. LeMaire (In re LeMaire),* 883 F.2d 1373 (8th Cir.1989)("*LeMaire I*"), *rev'd en banc,* 898 F.2d 1346 (8th Cir.1990), but upon rehearing en banc we determined that Lemaire had not proposed the Chapter 13 plan in good faith, *see LeMaire II,* 898 F.2d at 1352-53. Accordingly, we reversed the order confirming the plan and remanded the case for further proceedings. *Id.* at 1353. On July 19, 1990, the bankruptcy judge vacated the plan and dismissed the petition.

Handeen initiated this suit against the Firm and the Lemaires on October 16, 1992. The Complaint paints a sordid portrait of an intricate scheme through which Lemaire sought to fraudulently obtain a discharge of Handeen's judgment by manipulating the ***1344** bankruptcy system.[FN3] As part of this plot, the Firm and the Lemaires contrived to minimize whatever reduced recovery Handeen might achieve via the bankruptcy process. To this end, the Firm instructed Gregory to inflate the amount of his debts by agreeing to pay his parents rent and by executing a false promissory note payable to the elder Lemaires.[FN4] Gregory listed his parents as creditors on schedules he filed with the bankruptcy court,[FN5] and the Firm relied on the parents' claims when preparing proposed repayment plans. Of course, to the extent the bankruptcy court recognized this "indebtedness," it would reduce Handeen's pro rata share of any Chapter 13 distributions. Indeed, the cabal enjoyed success in this venture, for the bankruptcy court in substantial measure approved the parents' petitions against the estate.[FN6] As such, Gregory's parents received a portion of the sums he paid under the approved plan, and they compounded the fraud by transferring much of this money back to Gregory.

> FN3. As we explain below, at the current stage of these proceedings we must accept as true all of the allegations within the Complaint. We pay homage to this requirement during our recitation of the salient facts.
>
> FN4. Gregory had never before paid his mother and father rent for the privilege of living in their home. Furthermore, the promissory note was dated January 15, 1987, only one day prior to the date Gregory filed for bankruptcy protection.
>
> FN5. The Complaint also indicates that the Firm advised Gregory not to disclose on his schedules a contingent debt in the amount of $30,000 to $50,000 which he would have been obligated to repay to the United States Public Health Service if he failed to fulfill the terms of a fellowship stipend. This obscuration could have resulted in discrimination among creditors. *See LeMaire II,* 898 F.2d at 1350 n. 5.
>
> FN6. The Firm also represented Henry and Patricia Lemaire before the bankruptcy court, and it therefore defended their claims against objections lodged by Handeen.

The intrigue, however, does not end there. In 1989, while Handeen was appealing the bankruptcy court's confirmation of the Chapter 13 plan, Gregory found a new job which required him to relocate from Minneapolis to Houston, Texas. This employment significantly enhanced Lemaire's income. Nonetheless, presumably because a person who takes refuge in Chapter 13 must ordinarily devote to the repayment plan "all of the debtor's projected disposable income," 11 U.S.C. § 1325(b)(1)(B) (1994),[FN7] Lemaire did not wish to reveal his increased wages to the bankruptcy trustee. Consequently, Lemaire, his parents, and the

Firm formulated an artifice to avoid rousing the trustee's attention. Specifically, the ruse called for Lemaire to mail his father a parcel every month. Within that package would be an envelope addressed to the bankruptcy trustee and containing a check representing Lemaire's monthly payment under the plan. Lemaire's father would, in turn, place the enclosed envelope in the mails, and the trustee would thus receive a letter postmarked from Minneapolis rather than Houston. The object, it is clear, was to fool the trustee into believing that the status quo ante existed, and this exploitation of the postal service remained a monthly ritual until the court dismissed Lemaire's plan in July of 1990.

> FN7. To be sure, § 1325(b)(1)(B) speaks of the debtor's "projected disposable income" at the time the plan first takes effect. Section 1329, though, allows an unsecured creditor or the trustee to proffer a post-confirmation motion for modification of the plan. *See* 11 U.S.C. § 1329(a)(1) (1994).

In his Complaint, Handeen charges that the Firm and the Lemaires, through their duplicitous association with Gregory's bankruptcy estate, violated 18 U.S.C. § 1962(c) by conducting a RICO enterprise (the estate) through a pattern of racketeering activity. Handeen also alleges that the group conspired to violate RICO in violation of 18 U.S.C. § 1962(d). On summary judgment, the district court dismissed these claims against the Firm based on its determination that Handeen had failed to demonstrate "the existence of a pattern of racketeering separate and apart from the bankruptcy estate." At the same time, the district court rejected Handeen's attempt to obtain an augmented recovery under two provisions of Minnesota state law that subject unscrupulous attorneys to severe monetary penalties. *See* Minn.Stat. Ann. §§ 481.07-.071 (West 1990). The court decided that the statutes in question ***1345** merely authorize treble damages in certain civil suits and do not create independent causes of action. Thus, because the district court believed that Handeen did not attempt to ground his state law action upon a separate tort, but instead merely invoked the two damages provisions, the court found summary judgment appropriate.

Handeen now appeals the district court's dismissal of his RICO and state law causes of action.[FN8] We reverse the court's grant of summary judgment on these claims.

> FN8. The district court dismissed, as well, each of the many additional claims included within Handeen's Complaint. With one exception, Handeen does not challenge the district court's rulings on those counts. He does, however, appeal the district court's decision to grant summary judgment on a theory of recovery he struggled to forge from Rule 11 of the Federal Rules of Civil Procedure. We summarily affirm this aspect of the district court's judgment, because "Rule 11 sanctions must be sought by motion in a pending case; there can be no independent cause of action instituted for Rule 11 sanctions." *Cohen v. Lupo*, 927 F.2d 363, 365 (8th Cir.), *cert. denied*, 502 U.S. 861, 112 S.Ct. 180, 116 L.Ed.2d 142 (1991); *see also Port Drum Co. v. Umphrey*, 852 F.2d 148, 150 (5th Cir.1988)("[T]he rule's primary purpose is to discourage groundless proceedings rather than to compensate wronged parties by means of affirmative relief.").

II. DISCUSSION

* * * *

B. 18 U.S.C. § 1962(c)

A plaintiff who brings suit under 18 U.S.C. § 1962(c) must prove that the defendant engaged in (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity. *See Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496, 105 S.Ct. 3275, 3285, 87 L.Ed.2d 346 (1985); *cf. United States v. Darden*, 70 F.3d 1507, 1518 (8th Cir.1995)(describing the elements in an alternative, but essentially equivalent, manner), *cert. denied*, 517 U.S. 1149, 116 S.Ct. 1449, 134 L.Ed.2d 569, *and cert. denied*, 518 U.S. 1026, 116 S.Ct. 2567, 135 L.Ed.2d 1084 (1996). "In addition, the plaintiff only has standing if, and can only recover to the extent that, he has been injured in his business or property by the conduct constituting the violation." *Sedima*, 473 U.S. at 496, 105 S.Ct. at 3285. To determine whether Handeen has stated a substantive RICO violation, we must apply each of these elements to the assertions within his Complaint. Having done so, we are convinced that the district court committed error when it entered summary judgment for the Firm.

1. Conduct

Liability under § 1962(c) extends only to those persons associated with or employed by an enterprise who "conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity." 18 U.S.C. § 1962(c). In *Reves v. Ernst & Young*, 507 U.S. 170, 185, 113 S.Ct. 1163, 1173, 122 L.Ed.2d 525 (1993), the Supreme Court confirmed that this Circuit has correctly interpreted the "conduct" requirement to authorize recovery only against individuals who "participate in the operation or management of the enterprise itself." *See Bennett v. Berg*, 710 F.2d 1361, 1364 (8th Cir.)(en banc)(announcing the "operation or management" test), *cert. denied*, 464 U.S. 1008, 104 S.Ct. 527, 78 L.Ed.2d 710 (1983). The Supreme Court clarified the scope of the operation or management test, observing:

> ***1348** An enterprise is "operated" not just by upper management but also by lower rung participants in the enterprise who are under the direction of upper management. An enterprise also might be "operated" or "managed" by others "associated with" the enterprise who exert control over it as, for example, by bribery.
>
> * * * * * *
>
> [Section] 1962(c) cannot be interpreted to reach complete "outsiders" because liability depends on showing that the defendants conducted or participated in the conduct of the "*enterprise's* affairs," not just their *own* affairs. Of course, "outsiders" may be liable under § 1962(c) if they are "associated with" an enterprise and participate in the conduct of *its* affairs-that is, participate in the operation or management of the enterprise itself....

Reves, 507 U.S. at 184-85, 113 S.Ct. at 1173 (emphasis in original) (footnote omitted). Consonant with the dictate of *Reves*, it is not necessary that a RICO defendant have wielded control over the enterprise, but the plaintiff "must prove some part in the *direction* ... of the enterprise's affairs." *Darden*, 70 F.3d at 1543 (emphasis in original). *But cf. Department of Econ. Dev. v. Arthur Andersen & Co.*, 924 F.Supp. 449, 466-67 (S.D.N.Y.1996)(suggesting that requirement of control is the hallmark of *Reves*).

The Supreme Court's approval and refinement of our operation or management test has had far-reaching implications, particularly in the area of professional liability under RICO. This is not especially surprising, given that *Reves* itself involved an attempt to impute liability to an accounting firm. There, the accounting firm certified that a co-op's records adequately reflected its financial status, and the firm relied upon those existing records, in combination with a review of past co-op transactions, to prepare audits for the organization. *Reves*, 507 U.S. at 173-75, 113 S.Ct. at 1167-68. In completing these assignments, and without informing the co-op's board, the firm utilized questionable measures to verify the co-op's solvency. *Id.* at 174-75, 113 S.Ct. at 1167-68. The Supreme Court affirmed our decision finding that the accounting firm's activity did not constitute conduct of a RICO enterprise. *Id.* at 186, 113 S.Ct. at 1173-74.

In our view, the *Reves* decision represents a fairly uncomplicated application of the operation or management test. This test, like *Reves* itself, is built upon a recognition that Congress did not mean for § 1962(c) to penalize all who are employed by or associated with a RICO enterprise, but only those who, by virtue of their association or employment, play a part in directing the enterprise's affairs. Furnishing a client with ordinary professional assistance, even when the client happens to be a RICO enterprise, will not normally rise to the level of participation sufficient to satisfy the Supreme Court's pronouncements in *Reves*. In acknowledgment of this certainty, a growing number of courts, including our own, have held that an attorney or other professional does not conduct an enterprise's affairs through run-of-the-mill provision of professional services. *See Azrielli v. Cohen Law Offices*, 21 F.3d 512, 521 (2d Cir.1994)(finding no RICO liability where defendant had "acted as no more than [an] attorney"); *Baumer v. Pachl*, 8 F.3d 1341, 1344 (9th Cir.1993)(affirming dismissal of case against attorney whose "role was limited to providing legal services"); *University of Maryland v. Peat, Marwick, Main & Co.*, 996 F.2d 1534, 1538-40 (3d Cir.1993)(holding that accounting firm could not be liable for performing generic financial services for an insurance company); *Nolte v. Pearson*, 994 F.2d 1311, 1317 (8th Cir.1993)(deeming directed verdict appropriate where plaintiff's evidence did not indicate attorneys participated in the operation or management of the enterprise); *Menuskin v. Williams*, 940 F.Supp. 1199, 1210 (E.D.Tenn.)(granting summary judgment for attorney who performed "standard, routine" services for construction company), *appeal dismissed*, 98 F.3d 1342 (6th Cir.1996). By the same token, RICO is not a

surrogate for professional malpractice actions. *See University of Maryland*, 996 F.2d at 1539-40 (explaining that an accounting firm does not become liable under RICO by providing "materially deficient financial services"); *Baumer*, 8 F.3d at 1344 ("Whether [the attorney] rendered his services well or poorly, properly ***1349** or improperly, is irrelevant to the *Reves* test.").

Appreciation for the unremarkable notion that the operation or management test does not reach persons who perform routine services for an enterprise should not, however, be mistaken for an absolute edict that an attorney who associates with an enterprise can never be liable under RICO. An attorney's license is not an invitation to engage in racketeering, and a lawyer no less than anyone else is bound by generally applicable legislative enactments. Neither *Reves* nor RICO itself exempts professionals, as a class, from the law's proscriptions, and the fact that a defendant has the good fortune to possess the title "attorney at law" is, standing alone, completely irrelevant to the analysis dictated by the Supreme Court.[FN12] It is a good thing, we are sure, that we find it extremely difficult to fathom any scenario in which an attorney might expose himself to RICO liability by offering conventional advice to a client or performing ordinary legal tasks (that is, by acting like an attorney). This result, however, is not compelled by the fact that the person happens to be a lawyer, but for the reason that these actions do not entail the operation or management of an enterprise. Behavior prohibited by § 1962(c) will violate RICO regardless of the person to whom it may be attributed, and we will not shrink from finding an attorney liable when he crosses the line between traditional rendition of legal services and active participation in directing the enterprise. The polestar is the activity in question, not the defendant's status. *Cf. In re American Honda Motor Co. Dealerships Relations Litig.*, 941 F.Supp. 528, 560 (D.Md.1996)("Th[e] cases reveal an underlying distinction between acting in an advisory professional capacity (even if in a knowingly fraudulent way) and acting as a direct participant in [an enterprise's] affairs.").

> FN12. The Court did reference the distinction between "outsiders" and "insiders" to a RICO enterprise, but only in response to an argument by amicus that the operation or management test exemplifies an overly crabbed reading of the Act which unnecessarily limits the liability of outsiders. *Reves*, 507 U.S. at 184-85, 113 S.Ct. at 1172-73. In addressing this concern, the Court stressed that outsiders who associate with an enterprise *will* be liable if they "participate in the operation or management of the enterprise itself." *Id.* at 185, 113 S.Ct. at 1173. To put it another way, outsiders, like all other people, will be liable only if their actions satisfy the operation or management test.

Bearing these principles in mind, we are confident that Handeen's Complaint could support a verdict against the Firm. At the outset, we think it worthwhile to reflect upon the nature of a Chapter 13 bankruptcy estate. Chapter 13 affords to a debtor with a regular source of income or earnings, and with a relatively small debt load, an opportunity to obtain a discharge of debts after devoting to creditors disposable income received over a period not to exceed five years. *See In re Aberegg*, 961 F.2d 1307, 1308 (7th Cir.1992). Because creditors are paid from future earnings instead of assets, Chapter 13 permits a debtor who meets specified requirements to shield his property from seizure or liquidation. *See McRoberts v. S.I.V.I. (In re Bequette)*, 184 B.R. 327, 333 (Bankr.S.D.Ill.1995). Understandably, then, unless the repayment plan or bankruptcy court provides otherwise, the debtor retains custody of his possessions, *see* 11 U.S.C. § 1306(b) (1994), and "confirmation of a plan vests all of the property of the estate in the debtor," *id.* § 1327(b). Furthermore, the decision to seek Chapter 13 relief is wholly voluntary, and the debtor may, subject to exceptions not presently relevant, dismiss his case at any time. *See id.* § 1307(b). Finally, it is the debtor's exclusive prerogative to file a proposed repayment plan, *see id.* § 1321, and he enjoys many of the powers normally reserved to a bankruptcy trustee, *see id.* § 1303.

These examples illustrate, in pointed fashion, that the debtor exercises significant control over his Chapter 13 estate.[FN13] Of current ***1350** paramountcy is how much of that control the debtor, in this case Lemaire, may have relinquished to others. If the Complaint is to be believed, as it must, the Firm might have been the beneficiary of considerable abdication. In keeping with the contentions in that pleading, Handeen's proof could show that the Firm and the Lemaires joined in a collaborative undertaking with the objective of releasing Gregory from the financial

encumbrance visited upon him by Handeen's judgment. To realize that goal, Lemaire sought the assistance of the Firm. The attorneys, in turn, may have suggested that Chapter 13 bankruptcy, which presented a real opportunity for Lemaire to obtain a discharge of the debt arising from infliction of "willful and malicious injury by the debtor to another entity," 11 U.S.C. § 523(a)(6) (1994), offered the most propitious opportunity to reach the desired result. While Lemaire, obviously, was the party on whose behalf the Chapter 13 petition was filed, the Complaint could support a showing that the Firm navigated the estate through the bankruptcy system. Under this postulation, the Firm directed Gregory and his parents to enter into a false promissory note and create other sham debts to dilute the estate, the Firm represented the elder Lemaires and defended their fraudulent claims against objections, the Firm prepared Lemaire's filings and schedules containing erroneous information, the Firm formulated and promoted fraudulent repayment plans, and the Firm participated in devising a scheme to conceal Gregory's new job from the bankruptcy trustee. In short, Handeen might prove that Lemaire, who was, after all, ultimately interested solely in ridding himself of the oppressive judgment, controlled his estate in name only and relied upon the Firm, with its legal acuity, to take the lead in making important decisions concerning the operation of the enterprise.

> FN13. We certainly realize that a debtor is restrained by the authority of the bankruptcy court. This does not, however, alter the reality that the debtor holds the power to create the estate and define its limits through the proposal of a repayment plan. Moreover, the continued existence of the Chapter 13 estate is, for the most part, subject to the debtor's whim. The court, in general, acts as a reactive party in the process by granting, or refusing to grant, approval to courses of action chosen by the debtor. It is, without question, the debtor who stands at the helm of the Chapter 13 estate. Similarly, though a trustee is normally involved in the Chapter 13 process, "the trustee's functions are limited under Code § 1302 to administrative functions." *Carr v. Demusis (In re Carr)*, 34 B.R. 653, 655 (Bankr.D.Conn.1983), *aff'd*, 40 B.R. 1007 (D.Conn.1984). "A Chapter 13 trustee, unlike a Chapter 7 trustee, serves a limited administrative function of ensuring that the debtor's plan meets the standards for confirmation, objecting to claims, and paying approved claims according to the confirmed plan." *Bequette*, 184 B.R. at 333.

We underscore that we have no basis for speculating whether Handeen will, in the end, be able to substantiate this narrative. We merely include the above hypothetical to show that relief is available "under a[ ] set of facts that could be proved consistent with the allegations." *Hishon*, 467 U.S. at 73, 104 S.Ct. at 2232. If Handeen's evidence is up to this challenge, we are comfortable that he will have succeeded in proving that the attorneys conducted the bankruptcy estate. In that event, this would not be a case where a lawyer merely extended advice on possible ways to manage an enterprise's affairs. *Cf. Azrielli*, 21 F.3d at 521 (foreclosing liability where defendant only acted as attorney in illicit transactions). Nor would this be a situation where counsel issued an opinion based on facts provided by a client. *See Reves*, 507 U.S. at 185-86, 113 S.Ct. at 1173-74 (concluding that accounting firm did not violate RICO when it prepared audits in reliance upon a client's existing records); *Nolte*, 994 F.2d at 1316-17 (refusing to impose RICO liability where attorney had generated documents based on facts provided by client). Instead, if the Firm truly did associate with the enterprise to the degree encompassed by the Complaint, we would not hesitate to hold that the attorneys "participated in the core activities that constituted the affairs of the [estate]," *Napoli v. United States*, 32 F.3d 31, 36 (2d. Cir.1994), *cert. denied*, 513 U.S. 1110, 115 S.Ct. 900, 130 L.Ed.2d 784, *and reh'g granted, factual inaccuracies corrected, and original determination confirmed*, 45 F.3d 680 (2d. Cir.), *cert. denied*, 514 U.S. 1084, 115 S.Ct. 1796, 131 L.Ed.2d 724, *and cert. denied*, 514 U.S. 1134 - ----, 115 S.Ct. 2015-16, 131 L.Ed.2d 1014 (1995), namely, the manipulation of the bankruptcy process to obtain a discharge for Lemaire. In that instance, the Firm would have played some "role in the conception, creation, or execution," *Azrielli*, 21 F.3d at 521, of the illegal scheme, and we could safely say that the lawyers participated in the operation or management of the estate by assuming at least "*some* part in directing ***1351** the enterprise's affairs." *Reves*, 507 U.S. at 179, 113 S.Ct. at 1170 (emphasis in original). Therefore, we conclude that the Complaint could justify a finding that the Firm participated in the conduct of the alleged RICO enterprise.

* * * *

III. CONCLUSION

For reasons expressed in the preceding pages, we reverse the district court's order to the extent it grants the Firm's motion for summary judgment on Handeen's state law and RICO claims. We affirm the district court's order in all other respects and remand for further proceedings consistent with this opinion.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.

C.A.8 (Minn.),1997.
Handeen v. Lemaire
112 F.3d 1339, RICO Bus.Disp.Guide 9271