

In order to establish a “pattern of racketeering activity” for purposes of Count 1, the government must prove beyond a reasonable doubt that defendant Rod Blagojevich committed or caused another person to commit at least two Racketeering Acts described in Count 1, and that those acts were in some way related to each other and that there was continuity between them. Although a pattern of racketeering activity must consist of two or more acts, deciding that two such acts were committed, by itself, may not be enough for you to find that a pattern exists.

Acts are related to each other if they are not isolated events, that is, if they have similar purposes, or results, or participants, or victims, or are committed a similar way, or have other similar distinguishing characteristics.

There is continuity between acts if, for example, they are ongoing over a substantial period, or if they are part of the regular way some entity does business or conducts its affairs.

The government need not prove that all the acts described in Count 1 were committed, but you must unanimously agree as to which two or more Racketeering Acts defendant Rod Blagojevich committed or caused to be committed in order to find that a pattern of racketeering activity has been established.

In order to establish a “pattern of racketeering activity” for purposes of Count 2, the government must prove beyond a reasonable doubt that defendant Rod Blagojevich agreed that some member of the conspiracy would commit at least two Racketeering Acts described in Count Two. The government must also prove that those acts were in some way related to each other and that there was continuity between them.

Acts are related to each other if they are not isolated events, that is, if they have similar purposes, or results, or participants, or victims, or are committed a similar way, or have other similar distinguishing characteristics.

There is continuity between acts if, for example, they are ongoing over a substantial period, or if they are part of the regular way some entity does business or conducts its affairs.

For purposes of Count 2, the government need not prove that any Racketeering Acts were actually committed at all, or that defendant Rod Blagojevich agreed to personally commit any such acts, or that defendant Rod Blagojevich agreed that two or more specific acts would be committed.

GOVERNMENT INSTRUCTION NO. 37 (modified)

Seventh Circuit Committee (1999) 18 U.S.C. § 1962(d)

Each of the Racketeering Acts described in Count 1 is numbered and some consist of two or more different offenses set out in separate, lettered subparagraphs [(a), (b), (c), etc]. To prove that defendant Rod Blagojevich committed a particular Racketeering Act that is made up of two or more offenses, it is sufficient if the government proves beyond a reasonable doubt that the defendant committed at least one of the offenses identified in the subparagraphs of that Racketeering Act. However, you must unanimously agree upon which of the different offenses alleged within a Racketeering Act defendant Rod Blagojevich committed.

GOVERNMENT INSTRUCTION NO. 38

Seventh Circuit Committee (1999) 18 U.S.C. § 1962(c) (modified)

The pattern of racketeering alleged in Count 1 consists of multiple acts involving bribery, wire fraud, and extortion.

Some of these acts are also charged in separate counts against defendant Rod Blagojevich (violations of the federal wire fraud statutes (Counts 3 through 13), and violations of the federal extortion statute (Counts 14, 15, 17, 19, 21 and 22)); and against defendant Robert Blagojevich (violation of the federal wire fraud statutes (Count 4), and violations of the federal extortion statute (Counts 21 and 22)).

I will instruct you on the applicable state law regarding bribery, and on the applicable federal law regarding wire fraud and extortion. The instructions I provide you regarding wire fraud are applicable to Count 1, Racketeering Acts 3(c), 4(c), 6(d), 6(e), 6(f), 6(g), 6(h), 6(i), 6(j), 6(k), and 6(l), as well as to Counts 3 through 13. The instructions I provide you regarding extortion are applicable to Count 1, Racketeering Acts 2(a), 3(a), 4(a), 5(a), as well as 6(a) and (b), and to Counts 14, 15, 17, 19, 21 and 22.

GOVERNMENT INSTRUCTION NO. 39 (modified)