

Bank of India, N.Y. Branch v Anaya Gems, Inc.

2026 NY Slip Op 30094(U)

January 5, 2026

Supreme Court, New York County

Docket Number: Index No. 655240/2018

Judge: Andrea Masley

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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BANK OF INDIA, NEW YORK BRANCH, and
ALLAHABAD BANK, HONG KONG BRANCH,

Plaintiff,

- v -

ANAYA GEMS, INC., ANSHUL GANDHI, DINIKA GANDHI,
RAJUL GANDHI, STARLIGHT DESIGNS CO. LLC,
SUPER DIAMOND JEWELRY, LLC, DNM JEWELRY
INC., MICHAEL PASQUAL, MICHAEL SCHEINMAN,
MANJUSAKA JEWELERS CO. LIMITED, MARS
VENTURE LTD., SINO STERLING, DIAGEM INC., AJAY
GANDHI, and STARLIGHT DESIGNS HOLDINGS, LLC,

Defendants.

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INDEX NO. 65240/2018

MOTION DATE _____

MOTION SEQ. NO. 017

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 017) 397, 398, 399, 408, 441, 442, 443, 444, 445, 446, 447, 471, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 585, 586, 621, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663

were read on this motion to/for DISMISSAL.

In motion sequence 016, defendants Michael Pasqual and Michael Sheinman move, pursuant to CPLR 3211(a)(7), to dismiss the RICO and conspiracy claims in the second amended complaint (SAC).

In the SAC, plaintiffs allege claims against Michael Pasqual and Michael Sheinman for civil RICO. The court previously dismissed the RICO claim with leave to replead. (NYSCEF 316, Decision and Order [mot. seq. 008].)

RICO Claim

“The Racketeer Influenced and Corrupt Organizations Act (RICO or Act), 18 U.S.C. §§ 1961-1968, provides a private right of action for treble damages to ‘[a]ny person injured in his business or property by reason of a violation’ of the Act’s criminal prohibitions.” (*Bridge v Phoenix Bond & Indem. Co.*, 553 US 639, 641 [2008] [citation

omitted].) “Section 1962 contains RICO's criminal prohibitions.” (*Id.* at 647.) One such prohibition states that

“[i]t 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.” (18 USC § 1962 [c].)

Accordingly, “[t]o establish a civil RICO claim for violation of Section 1962(c), a plaintiff must show that he was injured by defendants’ (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.” (*Azzielli v Cohen Law Offs.*, 21 F3d 512, 520 [2d Cir 1994] [internal quotation marks and citation omitted].) “RICO claims must be pleaded with particularity.” (*Robbins MBW Corp. v Ashkenazy*, 228 AD2d 357, 359 [1st Dept 1996].) Once again, plaintiffs fail to sufficiently allege an enterprise.

“[A] RICO enterprise is ‘a group of persons associated together for a common purpose of engaging in a course of conduct,’ the existence of which is proven ‘by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.’” (*First Capital Asset Mgt. v Satinwood, Inc.*, 385 F3d 159, 173 [2d Cir 2004], quoting *United States v Turkette*, 452 US 576 [1981].) “[T]o state a claim under RICO, a Plaintiff must allege and prove the existence of an enterprise which is separate and distinct from the alleged pattern of racketeering activity.” (*Goldfine v Sichenzia*, 118 F Supp 2d 392, 400 [SD NY 2000] [internal quotation marks and citation omitted]; see also *United States v Turkette*, 452 US at 583 [“The ‘enterprise’ is not the ‘pattern of racketeering activity’; it is an entity separate and apart from the pattern of activity in which it engages”].) Thus, if “the alleged enterprise would not exist but for the alleged pattern of racketeering activity,” the claim must be

dismissed. (*Id.*) The enterprise must also be “distinct from the person conducting the affairs of the enterprise.” (*First Capital Asset Mgt., Inc.*, 385 F3d at 173 [citations omitted].)

The U.S. Supreme Court confirmed that an “association-in-fact enterprise under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1961 et seq., must have ‘an ascertainable structure beyond that inherent in the pattern of racketeering activity in which it engages.’” (*Boyle v United States*, 556 US 938, 940-941 [2009] [citation omitted].)

“[A]n association-in-fact enterprise must have at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose. That an ‘enterprise’ must have a purpose is apparent from the meaning of the term in ordinary usage, i.e., a ‘venture,’ ‘undertaking,’ or ‘project.’ The concept of ‘associat[ion]’ requires both interpersonal relationships and a common interest. Section 1962(c) reinforces this conclusion and also shows that an ‘enterprise’ must have some longevity, since the offense proscribed by that provision demands proof that the enterprise had ‘affairs’ of sufficient duration to permit an associate to ‘participate’ in those affairs through ‘a pattern of racketeering activity.’” (*Id.* at 946 [citations omitted].)

Plaintiffs’ RICO claim is based on certain allegations of fraud – the customs fraud (NYSCEF 590, SAC ¶¶ 16-27 [redline copy]) and the fraud to divest Anaya Gems of its assets (*id.* ¶¶ 28-54, 132-226, 322-332). However, these are separate instances and there are no allegations connecting the actors such as to satisfy the requirement that plaintiffs plead an enterprise.

As for the customs fraud, plaintiffs merely expanded on how the customs fraud was conducted based on certain admissions made in connection with a settlement with the federal government. Even with additional details about how that scheme was conducted, plaintiffs still fail to sufficiently plead an association-

in-fact between the actors outside and beyond that one fraud scheme. There are no allegations of an association-in-fact beyond the fraudulent conduct itself evidencing “a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise’s purpose.” (*Boyle v United States*, 556 US at 946.)

As for the new allegations of fraud by SDC Designs and other actors, specifically paragraphs 146, 150-151, 162 in the SAC, again, these allegations fail to sufficiently plead that there was an association-in-fact between defendants that would be separate and apart from the fraudulent scheme itself. The fraud conduct alleged was spearheaded by SDC Designs and its shell company, Diagem; the fraud in our case is allegedly spearheaded by the Gandhi family and for their benefit. SDC Designs is not alleged to be an entity of the Gandhi family (NYSCEF 590, SAC ¶¶ 152 [listing SDC Designs principals], 147, 149, 162, 212.) The allegation that “[t]he principals of SDC Designs, who had operated their companies in a long-standing relationship with the companies of Anshul, Ajay and the Gandhi family” is not enough to show both “interpersonal relationships and a common interest.” (*Boyle v United States*, 556 US at 946.) The fraud allegedly committed by SDC Designs and other actors appears to be a remote instance of fraud conducted in a manner like the fraud allegedly conducted in this action. (*See id.* ¶ 162.)

Conspiracy

Plaintiff also appears to allege a conspiracy claim in connection with the RICO claim, i.e., a conspiracy to commit a RICO violation. A claim for conspiracy to commit a

RICO violation fails when plaintiff fails to state a claim for a RICO violation. (*Melrose Credit Union v Canizares*, 195 AD3d 1010, 1011 [2d Dept 2021]; *Helios Intern. S.A.R.L. v Cantamessa USA, Inc.*, 2013 WL 3943267 [SDNY July 31, 2013] [“in the absence of a validly pled substantive RICO claim, Plaintiffs' claim under 18 U.S.C. § 1962(d) for RICO conspiracy fails as well”].)

Accordingly, it is

ORDERED that defendants Michael Pasqual and Michael Sheinman’s motion to dismiss the RICO and conspiracy claims is granted and the ninth and tenth causes of action of the second amended complaint are dismissed; and it is further

ORDERED that defendants Michael Pasqual and Michael Sheinman are directed to serve an answer to the second amended complaint within 20 days of the date of this decision and order.



1/5/2026
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	REFERENCE