



**TABLE OF CONTENTS**

INTRODUCTION ..... 1

ARGUMENT..... 2

    I.    PLAINTIFF HAS ABANDONED ITS CAUSES OF ACTION AGAINST  
          ROBINHOOD OTHER THAN RICO..... 2

        A.    Plaintiff Has Abandoned Its IGRA Claim Against Robinhood and Also  
              Has Not Alleged Facts To Support an IGRA Violation for Purposes of Its  
              RICO Claim. .... 2

        B.    Plaintiff Has Abandoned Its Claims Against Robinhood for Violation of  
              Plaintiff’s Gaming Ordinance and for Infringement on Tribal Sovereignty.  
              ..... 4

    II.   PLAINTIFF FAILS TO ADEQUATELY PLEAD ITS CIVIL RICO CLAIM  
          AGAINST ROBINHOOD..... 4

        A.    Plaintiff Lacks Statutory Standing To Bring Its Civil RICO Claim..... 5

        B.    Plaintiff Fails To Plead That Robinhood Engaged in a Predicate Act of  
              Racketeering Conduct..... 7

        C.    Plaintiff’s Allegations That Robinhood and Kalshi Conducted a  
              Legitimate Business Activity Cannot Support a Claim of a RICO  
              Enterprise. .... 12

    III.  PLAINTIFF FAILS TO PLEAD A CLAIM AGAINST ROBINHOOD  
          MARKETS, INC..... 14

CONCLUSION..... 15

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>All-Tone Commc 'ns, Inc. v. Am. Info. Tech.</i> , No. 89 C 7883, 1991 WL 166532 (N.D. Ill. Aug. 26, 1991).....	14
<i>Anza v. Ideal Steel Supply Corp.</i> , 547 U.S. 451 (2006) .....	4, 5
<i>Baisch v. Gallina</i> , 346 F.3d 366 (2d Cir. 2003) .....	5, 6
<i>Bible v. United Student Aid Funds, Inc.</i> , 799 F.3d 633 (7th Cir. 2015) .....	12
<i>Blue Lake Rancheria v. Kalshi Inc.</i> , No. 25-cv-06162-JSC, 2025 WL 3141202 (N.D. Cal. Nov. 10, 2025), <i>appeal filed</i> , No. 25-7504 (9th Cir. Nov. 25, 2025).....	<i>passim</i>
<i>California v. Cabazon Band of Mission Indians</i> , 480 U.S. 202 (1987) .....	4
<i>Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys.</i> , 603 U.S. 799 (2024) .....	8
<i>Crichton v. Golden Rule Ins. Co.</i> , 576 F.3d 392 (7th Cir. 2009) .....	13
<i>FTC v. Ken Roberts Co.</i> , 276 F.3d 583 (D.C. Cir. 2001) .....	9
<i>Gade v. Nat'l Solid Wastes Mgmt. Ass'n</i> , 505 U.S. 88 (1992).....	9
<i>Gaffney v. Riverboat Servs. of Ind., Inc.</i> , 451 F.3d 424 (7th Cir. 2006) .....	3, 8
<i>Hornell Brewing Co. v. Rosebud Sioux Tribal Ct.</i> , 133 F.3d 1087 (8th Cir. 1998) .....	3
<i>In re Bridgestone/Firestone, Inc. Tires Prods. Liab. Litig.</i> , 155 F. Supp. 2d 1069, 1090 (S.D. Ind. 2001), <i>rev'd in part on other grounds</i> , 288 F.3d 1012 (7th Cir. 2002) .....	6
<i>Jackson v. Payday Fin., LLC</i> , 764 F.3d 765 (7th Cir. 2014) .....	4

*James Cape & Sons Co. v. PCC Constr. Co.*,  
453 F.3d 396 (7th Cir. 2006) .....5

*Jepson, Inc. v. Makita Corp.*,  
34 F.3d 1321 (7th Cir. 1994) .....5, 6

*KalshiEX LLC v. Flaherty*,  
2025 WL 1218313 (D.N.J. Apr. 28, 2025), *appeal filed*, No. 25-1922 (3d Cir. filed  
May 15, 2025; argued Sept. 10, 2025) ..... 12

*Lancaster Cmty. Hosp. v. Antelope Valley Hosp. Dist.*,  
940 F.2d 397 (9th Cir. 1991) .....6

*Med. Marijuana, Inc. v. Horn*,  
604 U.S. 593 (2025) .....6

*Michigan v. Bay Mills Indian Cmty.*,  
572 U.S. 782 (2014) .....3, 4

*Murphy v. NCAA*,  
584 U.S. 453 (2018) .....9

*Omnicare, Inc. v. Laborers Dist. Council Const. Indus. Pension Fund*,  
575 U.S. 175 (2015) ..... 12

*Paschoal v. Campbell Soup Co.*,  
No. 21-CV-07029-HSG, 2022 WL 4280645 (N.D. Cal. Sept. 15, 2022) ..... 15

*Ratfield v. U.S. Drug Testing Lab’ys, Inc.*,  
140 F.4th 849 (7th Cir. 2025) .....5, 6

*Reves v. Ernst & Young*,  
507 U.S. 170 (1993) ..... 13

*Steven v. Roscoe Turner Aeronautical Corp.*,  
324 F.2d 157 (7th Cir. 1963) ..... 15

*Stifel, Nicolaus & Co. v. Lac du Flambeau Band of Lake Superior Chippewa Indians*,  
807 F.3d 184 (7th Cir. 2015) .....3

*United Food & Com. Workers Unions & Emps. Midwest Health Benefits Fund v.  
Walgreen Co.*,  
719 F.3d 849 (7th Cir. 2013) ..... 12, 13, 14

*United States v. Lundberg*,  
990 F.3d 1087 (7th Cir. 2021) ..... 11

*Vazquez v. Cent. States Joint Bd.*,  
547 F. Supp. 2d 833 (N.D. Ill. 2008).....6

*Wisconsin v. Ho-Chunk Nation*,  
784 F.3d 1076 (7th Cir. 2015) .....2

**Statutes & Rules**

7 U.S.C. § 1a.....13

7 U.S.C. § 2 .....9, 10

18 U.S.C. § 1084.....7, 9

18 U.S.C. § 1343.....7, 11

18 U.S.C. § 1955.....7, 10

18 U.S.C. § 1964.....5, 6

25 U.S.C. § 2710.....2, 3, 4

31 U.S.C. § 5361.....8

31 U.S.C. § 5362.....2, 8

31 U.S.C. § 5363.....8

Commodity Exchange Act .....*passim*

Fed. R. Civ. P. 9(b) .....11

Indian Gaming Regulatory Act.....*passim*

Racketeer Influenced and Corrupt Organizations Act .....*passim*

Unlawful Internet Gambling Enforcement Act .....*passim*

Wire Act .....*passim*

**Other Authorities**

Comptroller of the Currency, *Futures Commission Merchant Activities* (Nov. 1995,  
amended Mar. 20, 2025), available at <https://www.occ.gov/publications-and-resources/publications/comptrollers-handbook/files/futures-commission-merchant-act/pub-ch-futures-commission-merchant-activities.pdf>.....13

H.R. Conf. Rep. No. 93-1383 (1974) (Conf. Rep.), reprinted in 1974 U.S.C.C.A.N. 5894.....9, 10

S. Rep. No. 93-1131 (1974), *reprinted in* 1974 U.S.C.C.A.N. 5843..... 10

## INTRODUCTION

Plaintiff seeks to stretch the bounds of the Indian Gaming Regulatory Act (“IGRA”), tribal law and the Racketeer Influenced and Corrupt Organizations Act (“RICO”) in order to protect itself from alleged competitive injury from Defendants’ operation of federally-licensed derivatives trading businesses. As Robinhood showed in its opening brief in support of this Motion (“Br.”), Plaintiff’s theory is foreclosed by controlling precedent from the Supreme Court and the Seventh Circuit, and was also recently rejected on a motion for preliminary injunction by the Northern District of California in a similar case brought by Plaintiff’s counsel here on behalf of three Indian tribes against the same Defendants. *Blue Lake Rancheria v. Kalshi Inc.*, No. 25-cv-06162-JSC, 2025 WL 3141202 (N.D. Cal. Nov. 10, 2025), *appeal filed*, No. 25-7504 (9th Cir. Nov. 25, 2025). In its Response to Defendants’ Motions to Dismiss (the “Opposition” or “Opp.”), Plaintiff abandons most of its claims against Robinhood, maintaining only the civil RICO claim.

Plaintiff’s RICO claim against Robinhood fails for three separate reasons. *First*, Plaintiff lacks statutory standing because it relies on a theory of competitive injury (diversion of customers from Plaintiff’s casinos) that the Supreme Court and Seventh Circuit have repeatedly held cannot support a civil RICO claim. (*See infra* Part II.A.) *Second*, Plaintiff does not plead predicate offenses because Robinhood’s conduct is authorized by the CFTC, under the Commodity Exchange Act’s (“CEA”) grant of exclusive jurisdiction to the CFTC to regulate event contracts traded on designated contract markets (“DCMs”), and exempted by the Unlawful Internet Gambling Enforcement Act’s (“UIGEA”) carve-out for trading on CFTC-regulated DCMs. (*See infra* Part II.B.) *Third*, Plaintiff impermissibly characterizes a standard, federally regulated distribution arrangement between a future commission merchant (“FCM”) like Robinhood and a DCM like Kalshi as an “association-in-fact enterprise.” (*See infra* Part II.C.) *Finally*, Plaintiff fails to plead any facts to support a claim against Robinhood Markets, Inc. (“RHM”). (*See infra* Part III.)

## ARGUMENT

### I. PLAINTIFF HAS ABANDONED ITS CAUSES OF ACTION AGAINST ROBINHOOD OTHER THAN RICO.

In its Opposition, Plaintiff states that it “only brings one claim, for civil RICO, against Robinhood.” (Opp. at 1 n.1.) Accordingly, Plaintiff has abandoned its other causes of action against Robinhood.

#### A. Plaintiff Has Abandoned Its IGRA Claim Against Robinhood and Also Has Not Alleged Facts To Support an IGRA Violation for Purposes of Its RICO Claim.

Robinhood briefly addresses IGRA because, despite abandoning the IGRA claim against Robinhood, Plaintiff continues repeatedly to rely on a claim of an IGRA violation in support of its civil RICO claim. (See Opp. at 32-33, 36-37 (IGRA), 34-35, 38 (“class III gaming”).) As Robinhood showed in its opening brief (Br. at 10-15), however, Robinhood’s off-reservation conduct offering its customers trading in federally regulated event contracts does not violate IGRA.<sup>1</sup>

*First*, Robinhood does not violate IGRA because sports-related event contracts are not “class III gaming.” 25 U.S.C. § 2710(d)(1). “Class III gaming ... includes the types of games that most would associate with casinos: slot machines, craps, roulette, and banked card games like blackjack.” *Wisconsin v. Ho-Chunk Nation*, 784 F.3d 1076, 1079 (7th Cir. 2015). As Robinhood explained in its opening brief, sports-related event contracts are a form of federally licensed derivatives trading, subject to a comprehensive regulatory scheme under the “exclusive jurisdiction” of the CFTC. (See Br. at 2-7.) Moreover, Congress made clear in UIGEA that transactions conducted on a CFTC-regulated DCM, like Kalshi’s, are not “bets or wagers.” 31 U.S.C. § 5362(1)(E)(ii). Plaintiff’s only response is that it has alleged in its Complaint that the conduct here *is* in fact class III gaming, and the Court must accept these allegations as true. (Opp. at 10.) Not so. Whether the conduct at issue here is class III gaming is a legal question of statutory

---

<sup>1</sup> Robinhood also showed in its opening brief that Plaintiff has no private right of action under IGRA. (Br. at 8-10.)

interpretation. *See Gaffney v. Riverboat Servs. of Ind., Inc.*, 451 F.3d 424, 445 (7th Cir. 2006) (noting that issues of statutory interpretation are issues of law).

*Second*, Robinhood does not violate IGRA because its offer of sports-related event contracts does not take place “on Indian lands.” 25 U.S.C. § 2710(d)(1). Robinhood’s servers, offices, employees and business exist entirely off Indian lands. Indeed, for any trade placed through Robinhood’s app, whether on or off tribal lands, Robinhood’s conduct is exclusively off-reservation (*e.g.*, flow of funds, processing and execution). Such conduct does not become activity “on Indian lands” when, as here, a commercial service is simply accessible to tribal members and non-Indians, even when on Indian lands, over the Internet. *See Hornell Brewing Co. v. Rosebud Sioux Tribal Ct.*, 133 F.3d 1087, 1093 (8th Cir. 1998) (“Advertising outside the Reservation and on the Internet ... cannot be said to constitute non-Indian use of Indian land.”); *Stifel, Nicolaus & Co. v. Lac du Flambeau Band of Lake Superior Chippewa Indians*, 807 F.3d 184, 207-08 (7th Cir. 2015) (rejecting tribal jurisdiction over non-Indian financial institutions whose purchase of tribal bonds *off-reservation* is not “conduct inside the reservation that implicates the tribe’s sovereign interests” (citations and quotations omitted) (emphasis in original)).

Plaintiff attempts to distinguish these cases by arguing that “gaming occurs in the location where the consumers place the bet,” even if ancillary operational activities occur elsewhere. (Opp. at 11.) In support of this point, Plaintiff relies on the Supreme Court’s holding in *Bay Mills* that because “‘class III gaming activity’ is what goes on in a casino,” a tribe’s operation of a casino off its land was not considered class III gaming “on Indian lands” for purposes of IGRA, despite the fact that some of the tribe’s backend operations for the casino occurred on-land. (Opp. at 11 (citing *Michigan v. Bay Mills Indian Cmty.*, 572 U.S. 782, 790, 792 (2014)).) But *Bay Mills* does not hold that “gaming occurs in the location where the consumers place the bet.” (Opp. at 11.) *Bay Mills* was about in-person gambling and merely held that what matters is where the casino operates the actual games, as opposed to backend operations. *Bay Mills*, 572 U.S. at 792. *Bay Mills* does not involve a situation, where, as here, the alleged conduct occurs over the Internet, and there is a distinction between the location of the alleged “casino” (the DCM here) and the location of the

customer. Moreover, *Bay Mills* concerned the scope of IGRA as applied to the conduct of *Indian Tribes on Indian lands*. 572 U.S. at 792-94. *Bay Mills* says nothing about *nonmembers'* conduct off Indian lands. As the Supreme Court recognized, “the problem Congress set out to address in IGRA ... arose in Indian lands alone.” *Bay Mills*, 572 U.S. at 794 (emphasis added) (citing *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987)). The meaning of “on Indian lands” in Section 2710(d) of IGRA is therefore linked to the scope of tribal jurisdiction. *Bay Mills* is therefore inapposite here, where Plaintiff seeks to apply Section 2710(d) to a nonmember acting off Indian lands, because “*subject matter jurisdiction* over a nonmember ... is tethered to the *nonmember's* actions, specifically the *nonmember's actions on the tribal land.*” *Jackson v. Payday Fin., LLC*, 764 F.3d 765, 782 n.42 (7th Cir. 2014) (emphasis in original). Robinhood’s conduct is exclusively off Indian lands and does not fall within the scope of IGRA under *Bay Mills*.

**B. Plaintiff Has Abandoned Its Claims Against Robinhood for Violation of Plaintiff’s Gaming Ordinance and for Infringement on Tribal Sovereignty.**

Plaintiff does not respond to the showing in Robinhood’s opening brief that Robinhood’s conduct does not violate the Nation’s gaming ordinance (Br. at 15-19) and Robinhood has not infringed on any sovereign right (*id.* at 19-21).

**II. PLAINTIFF FAILS TO ADEQUATELY PLEAD ITS CIVIL RICO CLAIM AGAINST ROBINHOOD.**

Turning to the civil RICO claim that Plaintiff asserts against Robinhood, Plaintiff fails to plausibly allege that it was injured as the direct victim of an alleged RICO scheme under Section 1962(c) for three independent reasons: (i) it advances an indirect competitor-injury theory that the Supreme Court and Seventh Circuit have repeatedly held does not confer civil RICO standing; (ii) it relies on predicate offenses that cannot be squared with the CEA’s grant of exclusive jurisdiction to the CFTC to regulate event contracts traded on DCM nor with the UIGEA’s carve-out for CFTC-regulated exchange activity; and (iii) it impermissibly characterizes a standard, federally regulated distribution arrangement between an FCM and a DCM as an “association-in-fact enterprise.”

**A. Plaintiff Lacks Statutory Standing To Bring Its Civil RICO Claim.**

Plaintiff fails to plausibly allege it has standing to bring its civil RICO claim. To have standing under RICO, Plaintiff must allege that its injury was directly caused “by reason of” the alleged racketeering. 18 U.S.C. § 1964(c); *Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451, 456-57 (2006). For an injury to be caused “by reason of” the alleged racketeering, the RICO violation must be “the proximate cause of his or her damages.” *James Cape & Sons Co. v. PCC Constr. Co.*, 453 F.3d 396, 403 (7th Cir. 2006) (citing *Anza*, 547 U.S. 451). Therefore, only those who are *direct* victims of the alleged predicate violations—not indirect business competitors—have standing to pursue civil RICO claims. *Anza*, 547 U.S. at 458-60; *see also Ratfield v. U.S. Drug Testing Lab’ys, Inc.*, 140 F.4th 849, 852-53 (7th Cir. 2025) (finding that plaintiffs “f[ell] short” of “draw[ing] a direct causal link”). To determine RICO standing, courts analyze the class of persons a predicate statute is intended to protect to understand who the direct victims of the alleged scheme are. *See Jepson, Inc. v. Makita Corp.*, 34 F.3d 1321, 1326-27 (7th Cir. 1994) (noting that competitive injury was likely “beyond the scope of the mail and wire fraud statutes”).

Plaintiff does not meaningfully engage with the requirement that its injury be directly caused “by reason of” the alleged racketeering. 18 U.S.C. § 1964(c); *Anza*, 547 U.S. at 456-57. In its attempt to meet this requirement, Plaintiff recasts its injury as an “illegal encroachment” on a supposed “monopoly.” (Opp. at 38-40.) That explanation is insufficient for several reasons. *First*, Plaintiff does not even address the fact that the predicates on which it relies—the Wire Act, the Illegal Gambling Business Act and the Wire Fraud statute—exist to protect consumers, not to protect casinos from competition. *See Jepson*, 34 F.3d at 1326-27; *Baisch v. Gallina*, 346 F.3d 366, 375 (2d Cir. 2003) (holding that “a RICO plaintiff must show both that he is within the class the statute sought to protect and that the harm done was the one that the statute meant to prevent”). In *Jepson*, the plaintiff alleged that defendants engaged in a mail and wire fraud scheme by disparaging plaintiff’s products and diverting plaintiff’s customers, which caused injuries to plaintiff’s “economic performance, market position, and customer base.” 34 F.3d at 1327 (internal quotation marks and citations omitted). The district court held that the allegations did not fall

“under the rubric of fraud” because the “mail and wire fraud statutes focus on the protection of property rights.” *Id.* On appeal, the Seventh Circuit observed “considerable persuasive force” in the district court’s conclusion that the competitive injury alleged was insufficient to support a mail or wire fraud claim. *Id.*; *see also Lancaster Cmty. Hosp. v. Antelope Valley Hosp. Dist.*, 940 F.2d 397, 405-06 (9th Cir. 1991) (holding that competitive injury cannot support a RICO claim under mail fraud and related statutes). So too here. Even if it were true (and it is not) that Defendants used the mails or interstate wires to misrepresent the nature of sports-related event contracts, only customers who spent money trading those contracts could have possibly been deprived of a cognizable property interest. The direct victims of any purported RICO scheme based on those predicates would therefore be consumers, not business competitors.

*Second*, Plaintiff argues it has standing because “[n]o one is allowed to compete with the Nation,” so loss of revenue to its casinos was a “concrete and foreseeable” injury from Robinhood’s offer of sports-related event contracts. (*See Opp.* at 38-39.) This argument fails too because, again, preventing competition to legal gambling businesses is not the purpose of any of the criminal statutes that Plaintiff pleads as RICO predicates. *See Jepson*, 34 F.3d at 1326-27; *Baisch*, 346 F.3d at 375. Further, as the Supreme Court has repeatedly instructed, the central question is whether the alleged RICO violation directly led to plaintiff’s injuries, and “foreseeability does not cut it.” *Med. Marijuana, Inc. v. Horn*, 604 U.S. 593, 612 (2025) (citation omitted); *see also Ratfield*, 140 F.4th at 852 (finding that plaintiffs “f[ell] short” of “draw[ing] a direct causal link”). Plaintiff cannot rely on this foreseeability argument to support statutory standing for a civil RICO claim.

Plaintiff also attempts to cure the lack of directness by trying to recharacterize its alleged injury as an “illegal encroachment on [Plaintiff’s] monopoly,” such that it claims its injury is not “contingent on consumer choice.” (*Opp.* at 39.) This argument fails for several reasons. To the extent Plaintiff argues that its injury is not diverted revenue, but rather an “illegal encroachment” on its monopoly, there would be no cognizable injury under civil RICO because there could only be a concrete financial loss if Plaintiff suffered a loss of actual revenue. *See In re*

*Bridgestone/Firestone, Inc. Tires Prods. Liab. Litig.*, 155 F. Supp. 2d 1069, 1090 (S.D. Ind. 2001) (“Federal courts have consistently and repeatedly held that to satisfy the injury requirement of section 1964, a plaintiff must prove an actual, concrete monetary loss (*i.e.*, an “out-of-pocket” loss)”) (collecting cases), *rev’d in part on other grounds*, 288 F.3d 1012 (7th Cir. 2002); *see also Vazquez v. Cent. States Joint Bd.*, 547 F. Supp. 2d 833, 860 (N.D. Ill. 2008) (explaining that the Seventh Circuit requires a civil RICO plaintiff to allege a concrete financial loss which does not encompass a mere injury to a valuable intangible property interest). But Plaintiff could have lost revenue only if consumers made intervening choices to forgo patronizing Plaintiff’s casinos. Plaintiff’s alleged injury therefore *is* contingent on customer choice. Even Plaintiff’s recharacterized theory of injury proves the point. Plaintiff says its theory of encroachment upon its monopoly is based on “diverting revenue that belongs to the Nation.” (Opp. at 38-39.) Diverting revenue is possible only as the result of consumers’ choices. Indeed, Plaintiff alleges that Defendants targeted consumers by offering illicit sports betting disguised as CFTC-compliant sports-related event contracts, which induced those consumers to trade those event contracts. (Compl. ¶¶ 152-154.) By Plaintiff’s own theory, the victims of any purported RICO scheme are consumers who lost money trading event contracts, not tribal casinos who allegedly suffer “diverted revenue” from indirect competitive injury. (*Id.* ¶ 168.) Plaintiff therefore lacks statutory standing to bring its civil RICO claim.

**B. Plaintiff Fails To Plead That Robinhood Engaged in a Predicate Act of Racketeering Conduct.**

Plaintiff’s Opposition also fails to cure the deficiencies in pleading each of its alleged predicate acts: (1) interstate transmission of wagering information under 18 U.S.C. § 1084; (2) operation of an illegal gambling business under 18 U.S.C. § 1955; and (3) wire fraud under 18 U.S.C. § 1343.

**1. Plaintiff Does Not Plausibly Plead Interstate Transmission of Wagering Information Under 18 U.S.C. § 1084.**

Defendants’ conduct cannot violate the Wire Act both because it is legal under the CEA and is exempted by UIGEA. Plaintiff’s arguments to the contrary fail.

*First*, Plaintiff’s arguments about the inapplicability of UIGEA are misplaced. As a threshold matter, Plaintiff is wrong to claim that the Court must “ignore the Nation’s factual allegations” in order to determine UIGEA controls here. (Opp. at 36.) The applicability of UIGEA is a question of law, not fact. *See Gaffney*, 451 F.3d at 445 (noting that issues of statutory interpretation are issues of law).

Accepting all of Plaintiff’s allegations as true, UIGEA exempts Robinhood’s conduct from regulation. *See Blue Lake Rancheria*, 2025 WL 3141202, at \*6 (“UIGEA should be interpreted to apply to cover interstate (or state-to-Indian-lands and vice versa) gaming transactions via the internet . . .”). UIGEA regulates gaming that crosses the borders of state or Indian lands. 31 U.S.C. § 5363. And UIGEA *expressly* carves out trading on CFTC-regulated exchanges by defining “bet or wager” to exclude “any transaction conducted on or subject to the rules of a registered entity or exempt board of trade under the [CEA].” *Id.* § 5362(1)(E)(ii). Accordingly, in *Blue Lake Rancheria*, the court recognized that the UIGEA exemption governs the type of conduct alleged in Plaintiff’s Complaint here. *See* 2025 WL 3141202, at \*6 (“Plaintiffs also have not shown a likelihood of succeeding on its IGRA claim for an additional reason: a later enacted, more specific statute—the UIGEA—governs Kalshi’s contracts.”). In reaching this conclusion, the court noted that UIGEA’s definition of “bet or wager” expressly “does not include any transaction” conducted on a CFTC-regulated DCM. *Id.* (citing 31 U.S.C. §§ 5362(1)(E)(i), (iv)(I).) Plaintiff does not (and cannot) dispute that all of the contracts here are traded on a CFTC-regulated DCM. Accordingly, none of the contracts can be “bet(s) or wager(s)” as Plaintiff alleges.

Plaintiff’s reliance on UIGEA’s non-alteration clause, 31 U.S.C. § 5361(b), is misplaced. (*See* Opp. at 37.) Robinhood does not argue that UIGEA amends or “alters” the Wire Act. Rather, it argues that consistent-usage principles require reading the same terms across related federal statutes in harmony with the CEA’s exclusive jurisdiction. *See Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys.*, 603 U.S. 799, 818 (2024). Plaintiff argues that *Corner Post* is inapposite because it “did not involve the importation of definitions from a later-enacted statute that Congress expressly stated would not alter existing gambling laws.” (Opp. at 37.) But again,

nothing in any previous statute is being “altered” as Plaintiff claims. The Wire Act does not define “bet” or “wager.” *See* 18 U.S.C. § 1084(a). Using UIGEA’s definition to inform the meaning of undefined terms in the Wire Act avoids statutory collision and is not an “alteration” of other law. For this reason, the *Blue Lake Rancheria* court has already held that UIGEA governs. *Blue Lake Rancheria*, 2025 WL 3141202, at \*6. For the same reasons, Plaintiff’s reliance on *Murphy v. NCAA*, 584 U.S. 453 (2018), is misguided. (*See* Opp. at 37-38.) While Plaintiff is correct that *Murphy* instructs that states are free to regulate sports gambling, Plaintiff does not address the fact that sports-related event contracts traded on a DCM are not sports gambling subject to state regulation because they are subject to an exclusive federal scheme under the CEA and the CFTC’s regulations.

*Second*, Robinhood’s offer of sports-related event contracts cannot be a Wire Act violation because it is legal under the CEA, which grants exclusive jurisdiction to the CFTC to regulate sports-related event contracts traded on DCMs. 7 U.S.C. § 2(a)(1)(A); H.R. Conf. Rep. No. 93-1383, at 35 (1974) (the CEA “preempt[s] the field insofar as futures regulation is concerned”), *reprinted in* 1974 U.S.C.C.A.N. 5894, 5897. Congressional statements about the creation of the CFTC confirm that establishing the CFTC and endowing it with exclusive jurisdiction was to “avoid unnecessary, overlapping and duplicative regulation.” *FTC v. Ken Roberts Co.*, 276 F.3d 583, 588 (D.C. Cir. 2001) (citations and quotations omitted). The CEA’s design and legislative history show that “Congress intended to subject” commodity futures and derivatives “to only one set of regulations.” *Gade v. Nat’l Solid Wastes Mgmt. Ass’n*, 505 U.S. 88, 99 (1992). Applying the Wire Act to the routine order routing, execution, clearing and settlement mandated by the CEA for activity between FCMs like Robinhood and DCMs like Kalshi would directly conflict with Congress’s grant that the CFTC “shall have exclusive jurisdiction” over trading on DCMs. 7 U.S.C. § 2(a)(1)(A).

*Third*, federal courts are not the forum to police the content of event contracts under the CEA’s exclusive jurisdiction scheme. Indeed, in *Blue Lake Rancheria*, the court held that it did not have jurisdiction to determine whether event contracts violated the CEA, given that the CFTC

has “exclusive jurisdiction” over its contract markets. *See Blue Lake Rancheria*, 2025 WL 3141202, at \*7. In any event, CEA-regulated trading of event contracts on DCMs is not “betting or wagering” under the Wire Act as a matter of law.

**2. Plaintiff Does Not Plausibly Plead the Operation of an Illegal Gambling Business Under 18 U.S.C. § 1955.**

For similar reasons, Plaintiff has not plausibly alleged that Robinhood is operating an illegal gambling business in violation of 18 U.S.C. § 1955. Plaintiff again incorrectly treats the question of whether Robinhood “operates an illegal gambling business” as a factual allegation, which the Court must accept as true, rather than a legal one. (Opp. at 36.) Section 1955 applies only to gambling that is illegal under state law. *See* 18 U.S.C. § 1955(b)(1)(i). Where the CEA grants the CFTC exclusive jurisdiction over trading on a DCM, state gambling restrictions that would purport to regulate—and even criminalize—that federally regulated conduct are preempted. *See supra* Section II.B.1. Given the CEA authorization and the UIGEA exemption, the definitions of “gambling” and “gambling business” in 18 U.S.C. § 1955 do not apply to Robinhood’s federally regulated derivatives trading business. *See id.* This is especially true here, where Robinhood’s conduct is not *illegal* in any sense because it is *legal* under the CEA and UIGEA.

In its Opposition, Plaintiff argues that Robinhood cannot rely on CEA authorization, but Plaintiff does not engage with the statutory text, legislative history or case law establishing that Congress “preempt[ed] the field insofar as futures regulation is concerned.” 7 U.S.C. § 2(a)(1)(A); *see also* H.R. Conf. Rep. No. 93-1383, at 35, 1974 U.S.C.C.A.N. at 5897. The grant of “exclusive jurisdiction” to the CFTC displaces regulation both by States (*e.g.*, Wisconsin gambling law) and under other Federal laws (*e.g.*, IGRA). *See* S. Rep. No. 93-1131, at 6 (1974) (“[T]he Commission’s jurisdiction, where applicable, supersedes State as well as Federal agencies.”), *reprinted in* 1974 U.S.C.C.A.N. 5843, 5848. Congress again recognized this grant of exclusive jurisdiction in the UIGEA carve-out. As a matter of law, therefore, Section 1955 cannot apply to DCM-traded event contracts regulated by the CFTC.

**3. Plaintiff Does Not Plausibly Plead Wire Fraud Under 18 U.S.C. § 1343.**

Plaintiff's Opposition likewise does nothing to cure the pleading deficiencies in Plaintiff's wire fraud claim, namely the lack of any facts supporting an inference that Defendants acted with an intent to defraud. Plaintiff acknowledges that civil RICO claims based on wire fraud are subject to the heightened pleading standard of Fed. R. Civ. P. 9(b), requiring a plaintiff to plead fraud with particularity. (*See Opp.* at 34.) But Plaintiff's only specific allegations supposedly supporting Defendants' intent to defraud are that Kalshi previously told courts that certain contracts involve gaming and that Robinhood urged the CFTC to take a narrow approach to defining gaming. (*Id.*) Plaintiff argues that this shows Defendants "knew they could not list event contracts that involve gaming." (*Id.*) But these allegations fall far short of showing Defendants intended that "illicit objectives be achieved." *United States v. Lundberg*, 990 F.3d 1087, 1095 (7th Cir. 2021) (cleaned up). Good-faith legal positions publicly advanced before courts and regulators, and ongoing engagement with the CFTC about event contracts, do not support an inference of fraudulent intent. Plaintiff erroneously claims that "Defendants provide no legal support for such an alleged good faith belief in the legality of their actions." (*Opp.* at 35.) As Robinhood noted in its opening brief (*Br.* at 27), however, in the parallel *Blue Lake Rancheria* litigation, the court recognized that Defendants' statements asserting legal compliance were opinions held in good faith. *Blue Lake Rancheria*, 2025 WL 3141202, at \*2 ("Kalshi's advertisement is merely stating an opinion its product is legal, and given multiple courts have agreed with it, Plaintiffs have not shown the opinion is literally false or that Kalshi lacks a good-faith belief in the opinion's truth.").

Plaintiff also argues that Defendants cannot point to the classification of sports-related event contracts as transactions in commodities for future delivery or as "swaps," to claim Plaintiff failed to allege Wire Act violations. (*See Opp.* at 35.) Plaintiff argues that it "alleged facts showing these contracts could not be swaps" and that "every court who has considered" the issue "has found that these contracts cannot be swaps." (*Opp.* at 35.) Both of these arguments are incorrect. Whether or not sports-related event contracts are considered "swaps" is a question of law, such that Plaintiff's factual allegations on the issue are irrelevant. Indeed, the CFTC, which

has exclusive jurisdiction to determine whether these contracts are authorized by the CEA, has permitted these contracts to trade on a DCM, which means they necessarily comply with the CEA. *See Blue Lake Rancheria*, 2025 WL 3141202, at \*7 (finding no jurisdiction to determine whether event contracts violated the CEA, given that the CFTC has “exclusive jurisdiction” over its contract markets). Moreover, multiple courts have held that these contracts *are* subject to the CFTC’s exclusive jurisdiction. *See KalshiEX LLC v. Flaherty*, 2025 WL 1218313, at \*6 (D.N.J. Apr. 28, 2025), *appeal filed*, No. 25-1922 (3d Cir. filed May 15, 2025; argued Sept. 10, 2025); *Blue Lake Rancheria*, 2025 WL 3141202, at \*7. In short, the CFTC has deemed these contracts to be subject to its regulation, and Plaintiff’s factual allegations that the contracts are not “swaps” cannot overcome the CFTC’s exclusive jurisdiction to make that determination.

Plaintiff’s argument that Defendants cannot rely on federal preemption is similarly misguided. Plaintiff argues that “courts across the country have rejected this argument.” (Opp. at 36.) But other federal courts have reached the opposite conclusion. *Flaherty*, 2025 WL 1218313, at \*6; *Blue Lake Rancheria*, 2025 WL 3141202, at \*7. Defendants’ belief in the legal basis for their position, consistent with court holdings, cannot amount to an intent to defraud. *See Omnicare, Inc. v. Laborers Dist. Council Const. Indus. Pension Fund*, 575 U.S. 175, 186 (2015) (holding that “sincere statement[s]” that “we believe we are obeying the law” cannot form the basis for securities fraud claims); *Blue Lake Rancheria*, 2025 WL 3141202, at \*2.

**C. Plaintiff’s Allegations That Robinhood and Kalshi Conducted a Legitimate Business Activity Cannot Support a Claim of a RICO Enterprise.**

Plaintiff also fails to plead an association-in-fact enterprise because it does not distinguish Robinhood and Kalshi’s “run-of-the-mill commercial relationship” from a “truly joint enterprise” premised on a common unlawful purpose. *See Bible v. United Student Aid Funds, Inc.*, 799 F.3d 633, 655-66 (7th Cir. 2015). Plaintiff suggests it has sufficiently pleaded this element because the definition of an association-in-fact enterprise is to be interpreted broadly. (Opp. at 31.) But Plaintiff must plead an association-in-fact enterprise that is distinct from the defendants’ ordinary business affairs and has a structure separate from each entity’s own operations. *See United Food*

*& Com. Workers Unions & Emps. Midwest Health Benefits Fund v. Walgreen Co.*, 719 F.3d 849, 854 (7th Cir. 2013). Plaintiff's claim fails because it neither distinguishes Defendants' ordinary business conduct nor alleges a structure separate from each entity's own operations.

Here, Plaintiff points to two facts to distinguish the conduct of the alleged "enterprise" from each defendant's own affairs. Neither is sufficient. Plaintiff first argues that Defendants' conduct exceeded typical commercial conduct because they supposedly offered class III gaming on the Nation's Indian lands, in violation of IGRA and Wisconsin law. (Opp. at 32.) As Robinhood has shown (*see* Br. at 7-19; *supra* Section I), Defendants' conduct is authorized by the CEA and does not violate IGRA or Wisconsin law. Even if Plaintiff were correct that this conduct constituted illegal activity, that would still be insufficient to allege an association-in-fact enterprise because it still would not explain how Defendants' conduct went beyond each of their respective operations. *United Food*, 719 F.3d at 855 ("Nor does the fact that Walgreens's and Par's activities were by all appearances illegal indicate that the companies were acting on behalf of a distinct enterprise.").

Second, Plaintiff contends that because Robinhood uses a "direct revenue-sharing model" for event contracts instead of the "payment for order flow" model it uses for stock trading, its conduct was not routine. (Opp. at 32-33.) But Plaintiff has failed to allege that such an approach is not ordinary business conduct for futures trading. *See Reves v. Ernst & Young*, 507 U.S. 170, 185 (1993) (routine activity by each defendant insufficient to constitute "conduct[ing] or participat[ing] in the conduct of the 'enterprise's affairs,'" as opposed to "their own affairs") (emphasis in original); *accord Crichton v. Golden Rule Ins. Co.*, 576 F.3d 392, 398 (7th Cir. 2009). Indeed, payment of commissions amounts to an ordinary, regulated FCM-DCM relationship, not an association-in-fact enterprise. *See* 7 U.S.C. § 1a(28)(A) (definition of "futures commission merchant"); *see also* Comptroller of the Currency, *Futures Commission Merchant Activities* at 7 (Nov. 1995, amended Mar. 20, 2025) (stating that FCMs typically earn "commissions from trades"), *available at* <https://www.occ.gov/publications-and-resources/publications/comptrollers-handbook/files/futures-commission-merchant-act/pub-ch-futures-commission-merchant->

activities.pdf. The Complaint describes nothing more than roles inherent in the federally regulated futures trading system established by the CEA and CFTC regulations. The allegations describe conduct inherent in most, if not every, commercial relationship between an FCM and a DCM, which cannot form the basis for a RICO enterprise.

In addition to failing to distinguish Defendants' ordinary business conduct, Plaintiff fails to allege a structure separate from each entity's own operations—Robinhood, an FCM that accepts and solicits event contract orders from customers, and Kalshi, a DCM that executes those orders. Plaintiff does not even address this requirement in its Opposition. This is fatal to its RICO claim. *See United Food*, 719 F.3d at 854-55 (holding that the complaint failed to allege “that officials from either company involved themselves in the affairs of the other,” or to suggest “that profits from the illegal drug-switching scheme were siphoned off to the [enterprise] or to individual enterprise members”).

### **III. PLAINTIFF FAILS TO PLEAD A CLAIM AGAINST ROBINHOOD MARKETS, INC.**

Because Plaintiff has not pleaded that RHM engaged in any conduct in violation of RICO, the Court should also dismiss all claims against RHM. Plaintiff incorrectly claims that it has pleaded that RHM and Robinhood Derivatives, LLC “both partnered with Kalshi to allow consumers to participate in class III gaming.” (Opp. at 41) (emphasis added). That is flatly contradicted by the allegations in the Complaint. Plaintiff alleges that Robinhood Derivatives, LLC is the entity that is a “futures commission merchant” and “*the division of Robinhood that has partnered with Kalshi to offer a prediction market*,” (Compl. ¶ 13 (emphasis added)), while RHM “is the parent company of all other Robinhood entities,” (*id.* ¶¶ 12-13 (emphasis added)). That is nothing more than pleading that RHM is the parent company.

Plaintiff tries to save its pleading failure by claiming that, since it collectively referred to “Defendants,” each of its allegations and claims “apply to all of the defendants” unless “explicitly stated against a specific defendant.” (Opp. at 40.) That type of group pleading is insufficient to survive a motion to dismiss. *See All-Tone Commc’ns, Inc. v. Am. Info. Tech.*, No. 89 C 7883, 1991

WL 166532, at \*2 (N.D. Ill. Aug. 26, 1991) (holding that “[a] parent company will be a proper RICO defendant only if it participated in the wrongful conduct of its subsidiary” and that a “vague accusation” that the parent uses the funds derived from its subsidiary is insufficient); *see also Paschoal v. Campbell Soup Co.*, No. 21-CV-07029-HSG, 2022 WL 4280645, at \*3 (N.D. Cal. Sept. 15, 2022) (holding that “generic and conclusory allegations against a parent company based on a subsidiary’s conduct are not sufficient to state a claim”).

By only using the general term “Defendants,” and without pleading any specific allegations against RHM, all Plaintiff has done is allege that RHM is Robinhood Derivatives, LLC’s parent. Yet, as Plaintiff acknowledges (Opp. at 40), a parent corporation is not liable for the acts of a subsidiary simply by virtue of its ownership of the subsidiary. *See Steven v. Roscoe Turner Aeronautical Corp.*, 324 F.2d 157, 161 (7th Cir. 1963). Plaintiff’s claim against RHM therefore fails.

### **CONCLUSION**

For the reasons set forth here and in Robinhood’s opening brief, Robinhood requests that this Court dismiss all of Plaintiff’s claims.

Dated this 12th day of January, 2026.

/s/ Antony L. Ryan

Antony L. Ryan (*pro hac vice*)  
Kevin J. Orsini (*pro hac vice*)  
Brittany L. Sukiennik (*pro hac vice*)  
Cravath, Swaine & Moore LLP  
Two Manhattan West  
375 Ninth Avenue  
New York, NY 10001  
Tel: (212) 474-1000  
Email: aryan@cravath.com  
Email: korsini@cravath.com  
Email: bsukiennik@cravath.com

/s/ Mithun Mansinghani

Mithun Mansinghani (*pro hac vice*)  
Lehotsky Keller Cohn LLP  
629 W. Main Street  
Oklahoma City, OK 73102  
Tel: (512) 693-8350  
Email: mithun@lkcfirm.com

/s/ Jessica Hutson Polakowski

Jessica Hutson Polakowski  
WI State Bar ID No. 1061368  
Reinhart Boerner Van Deuren s.c.  
22 East Mifflin Street, Suite 700  
Madison, WI 53703  
Tel: (608) 229-2200  
Email: jpolakowski@reinhartlaw.com

*Attorneys for Robinhood Markets, Inc.  
and Robinhood Derivatives, LLC*