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SUPREME COURT OF THE UNITED STATES

Syllabus

HOLMES v. SECURITIES INVESTOR PROTECTION CORPORATION ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 90-727. Argued November 13, 1991—Decided March 24, 1992

Pursuant to its authority under the Securities Investor Protection Act (SIPA), respondent Securities Investor Protection Corporation (SIPC) sought, and received, judicial decrees to protect the customers of two of its member broker-dealers. After trustees were appointed to liquidate the broker-dealers' businesses, SIPC and the trustees filed this suit, alleging, among other things, that petitioner Holmes and others had conspired in a fraudulent stock-manipulation scheme that disabled the broker-dealers from meeting obligations to customers; that this conduct triggered SIPC's statutory duty to advance funds to reimburse the customers; that the conspirators had violated the Securities Exchange Act of 1934 and regulations promulgated thereunder; and that their acts amounted to a "pattern of racketeering activity" within the meaning of the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§1962, 1961(1) and (5), so as to entitle the plaintiffs to recover treble damages, §1964(c). The District Court entered summary judgment for Holmes on the RICO claims, ruling, *inter alia*, that SIPC did not meet the "purchaser-seller" requirement for standing under RICO. The Court of Appeals held the finding of no standing to be error and, for this and other reasons, reversed and remanded.

Held: SIPC has demonstrated no right to sue Holmes under §1964(c). Pp.6-17.

(a) A plaintiff's right to sue under §1964(c)— which specifies that "[a]ny person injured . . . by reason of a violation of [§1962] may sue therefor . . . and . . . recover threefold the damages he sustains . . ."— requires a showing that the defendant's violation was the proximate cause of the plaintiff's

injury. Section 1964(c) was modeled on §4 of the Clayton Act, which was itself based on §7 of the Sherman Act, see *Associated General Contractors of Cal., Inc. v. Carpenters*, 459 U.S. 519, 530, and both antitrust sections had been interpreted to incorporate common-law principles of proximate causation, see, e. g., *id.*, at 533-534, and n. 29, 536, n. 33. It must be assumed that the Congress which enacted §1964(c) intended its words to have the same meaning that courts had already given them. Cf. *id.*, at 534. Although §1964(c)'s language can be read to require only factual, "but for," causation, this construction is hardly compelled, and the very unlikelihood that Congress meant to allow all factually injured plaintiffs to recover persuades this Court that the Act should not get such an expansive reading. Pp.6-9.

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(b)As used herein, ``proximate cause'' requires some direct relation between the injury asserted and the injurious conduct alleged. For a variety of reasons, see *id.*, at 540-544, such directness of relationship is one of the essential elements of Clayton Act causation. Pp.9-11.

(c)SIPC's claim that it is entitled to recover on the ground that it is subrogated to the rights of the broker-dealers' customers who did not purchase manipulated securities fails because the conspirators' conduct did not proximately cause those customers' injury. Even assuming, *arguendo*, that SIPC may stand in the shoes of such customers, the link is too remote between the stock manipulation alleged, which directly injured the broker-dealers by rendering them insolvent, and the nonpurchasing customers' losses, which are purely contingent on the broker-dealers' inability to pay customers' claims. The facts of this case demonstrate that the reasons supporting adoption of the Clayton Act direct-injury limitation, see *ibid.*, apply with equal force to §1964(c) suits. First, if the nonpurchasing customers were 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, as opposed to, *e. g.*, the broker-dealers' poor business practices or their failures to anticipate financial market developments. Second, assuming that an appropriate assessment of factual causation could be made out, the 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 the directly injured broker-dealers could be counted on to bring suit for the law's vindication, as they have in fact done in the persons of their SIPA trustees. Indeed, the insolvency of the victim directly injured adds a further concern to those already expressed in *Associated General Contractors*, 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. This analysis is not deflected by the congressional admonition that RICO be liberally construed to effectuate its remedial purposes, since allowing suits by those injured only indirectly would open the door to massive and complex damages litigation, which would not only burden the courts, but also undermine the effectiveness of treble-damages suits. *Id.*, at 545. Thus, SIPC must await the outcome of the trustees' suit and may share according to the priority SIPA gives its claim if the trustees recover from Holmes. Pp.11-16.

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(d)SIPC's claim that it is entitled to recover under a SIPA provision, 15 U.S.C. §78eee(d), fails because, on its face, that section 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," and gives SIPC no independent right to sue Holmes for money damages. P.16.

(e)This Court declines to 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. In light of the foregoing, discussion of that issue is unnecessary to resolve this case. Nor will leaving the question unanswered deprive the lower courts of much-needed guidance. A review of those courts' 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, who decided to forgo securities transactions in reliance on misrepresentations. P.17.
908 F.2d 1461, reversed and remanded.

SOUTER, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and BLACKMUN, KENNEDY, and THOMAS, JJ., joined, and in all but Part IV of which WHITE, STEVENS, and O'CONNOR, JJ., joined. O'CONNOR, J., filed an opinion concurring in part and concurring in the judgment, in which WHITE and STEVENS, JJ., joined. SCALIA, J., filed an opinion concurring in the judgment.