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JD:GN:icb

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Friedman v. United States, No. 18245
(C.A. No. 8) (Supplemental Memo)

John L. McCullough of the Criminal Division called me this morning to tell me that he had been informed by Assistant United States Attorney Jack Kaplan of the Southern District of New York that United States v. M. Raymond Adler, one of the unreported cases cited in my Friedman memorandum has been appealed to the Second Circuit.

The appellant's (Adler's) brief is expected to be filed today, and Kaplan indicated that the government would file a brief in opposition. McCullough said that Kaplan was confident that the Second Circuit would affirm. There also is an expectation that Adler would, if the court affirmed, take the case to the Supreme Court. Adler involved a statement to the F.B.I., so there would be a clear conflict between Circuit Courts if the case is affirmed.

Adler would appear to be a stronger case for the government to argue section 1001's applicability to the F.B.I.

I am attaching the Adler file, which contains the District Court opinion, in case you want to inform the Solicitor of this development.

Mr. Fiss ✓