

Court Finds Thompson Memorandum Violative of Fifth & Sixth Amendment Rights

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On June 26, 2006, in *United States v. Stein*, Southern District of New York Judge Lewis Kaplan held that by putting pressure on KPMG not to advance its employees' attorneys' fees, the government violated those employees' Fifth and Sixth Amendment rights to due process and the effective assistance of counsel. However, Judge Kaplan held that the violations did not warrant dismissal of the charges against the defendants, nor could he order the government or KPMG (which was not a party) to advance defendants' attorneys' fees. Instead, Judge Kaplan ordered the U.S. Attorney not to consider the advancement of attorneys' fees when deciding whether to indict KPMG, and he directed the employees to seek advancement of their fees from KPMG, urged the government to pressure KPMG to advance the fees, and strongly hinted that he would, if necessary, grant relief to the employees against KPMG.

Attorney

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