

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

MEMORANDUM

TO: Insider Trading Proscriptions Act
Legislative Committee

FROM: Harvey L. Pitt *HLP*

RE: Opinion and Order in United States v. Clark, 87 Cr. 49
(JFK) (S.D.N.Y. June 30, 1987)

DATE: July 2, 1987

Attached is a copy of the Opinion and Order in the Clark case involving an alleged co-conspirator of R. Foster Winans. Among other things, the court decided to delay the criminal trial of Winans's alleged co-conspirator until the Supreme Court has ruled on the validity and scope of the misappropriation theory. In my view, this case demonstrates the need for prompt legislative action on insider trading and effectively answers the assertion that any legislative clarification of the law on insider trading should await the Supreme Court's decision in United States v. Carpenter (the Winans case). It is now clear that the ambiguities in this area of the law are, at the least, capable of slowing down the government's prosecutions.

cc: Senator Riegle ✓
Senator D'Amato
Congressman Dingell

Attachment