

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal Action No. 05-cr-00545-EWN

UNITED STATES OF AMERICA

Plaintiff,

v.

JOSEPH P. NACCHIO,

Defendant.

DECLARATION OF MARK W. RUFOLLO

MARK W. RUFOLLO, of full age, declares as follows:

1. I am an attorney at law admitted to practice in the District of Colorado and elsewhere, and one of the attorneys representing Defendant Joseph P. Nacchio ("Mr. Nacchio") in this matter. I am fully familiar with the facts herein.

2. On April 11th, 2007, sometime between approximately 6:00 p.m. and 7:00 p.m., Mr. Nacchio, myself and others were walking along 18th Street in Denver toward Sullivan's Steakhouse, located at 1745 Wazee Street, following the jury's excusal at the end of that day.

3. As we walked along 18th Street, a red SUV drove up from behind us, pulled over to the side of the curb within feet of where we were walking, and came to a near stop when the driver, a man, yelled out of the window in sum and substance, "Hey Nacchio, I hope you get cancer and die." The vehicle continued to travel very slowly

along 18th Street, the driver applied his breaks a couple of times before getting to the next corner where he turned left, came to nearly a complete stop again and paused for several seconds, before finally driving off.

PURSUANT TO 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.


MARK W. RUFOLIO

Dated: June 4, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of June, 2007, a true and correct copy of the foregoing **DECLARATION OF MARK W. RUFOLO** was served on the following via the USDC CM/ECF system:

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s/Linze R. Harris
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