

**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.

STIPULATION

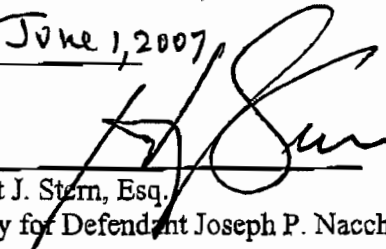
It is hereby stipulated and agreed by the respective parties to this proceeding, the United States of America, and defendant, Joseph P. Nacchio, and Anne Esker, to the following:

1. Joseph Nacchio and Anne Esker agree that any amount that the Court determines should be forfeited can be forfeited from the amount that is being held in the escrow accounts pursuant to the parties' other stipulation, which is attached hereto. Mr. Nacchio and Ms. Esker warrant that there are no other owners of the funds held in those accounts, and that no third parties have interests in those funds. Upon any order of forfeiture, neither Mr. Nacchio nor Anne Esker will contest that this money is available to satisfy the forfeiture, and will waive all interest in such funds as necessary to satisfy the forfeiture amount. Upon any such order of forfeiture, a check (or checks) will promptly be issued from those accounts as necessary to satisfy any forfeiture amount.
2. Joseph P. Nacchio further agrees that the only challenges he will raise to the forfeiture amount sought by the United States relate to the legal issue of what deductions,

if any, should be made from the \$52,007,545.47 sought by the United States -- i.e., whether taxes, fees, and option costs should be deducted or not.

3. The United States agrees not to file a new 32.2(b) motion for preliminary order with the Court. Rather, the 32.2(b) motion that the United States has on file with the Court will remain pending. Mr. Nacchio will respond to that motion by July 6, 2007, raising the challenges identified above. The United States will reply by July 17, 2007.

4. Based on this agreement, the United States further agrees not to seek discovery as to the potentially forfeitable property.

Dated: June 1, 2007


Herbert J. Stern, Esq.
Attorney for Defendant Joseph P. Nacchio

Dated: _____

Cliff Stricklin
Assistant United States Attorney

Dated: _____

William D. Lipkind, Esq.
Attorney for Anne Esker

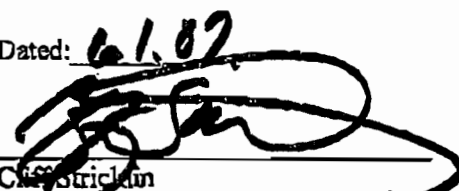
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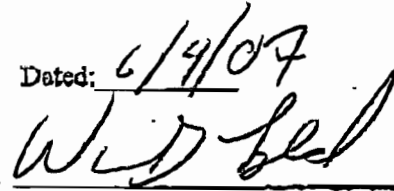
Herbert J. Stern, Esq.
Attorney for Defendant Joseph P. Nacchio

Dated: 6.1.07



Cliff Strickland
Assistant United States Attorney

Dated: 6/9/07



William D. Lipkind, Esq.
Attorney for Arno Esker