

**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.

**MOTION FOR A DOWNWARD DEPARTURE PURSUANT TO
18 U.S.C. § 3553(b)(1) and U.S.S.G. § 5K2.0 BASED UPON
EXTRAORDINARY FAMILY CIRCUMSTANCES AND U.S.S.G. § 5H1.11
BASED UPON EXTENSIVE CIVIC, CHARITABLE
AND OTHER PRIOR GOOD WORKS**

INTRODUCTION

Joseph P. Nacchio, by and through undersigned counsel, and pursuant to 18 U.S.C. § 3553(b) and U.S.S.G. § 5K2.0, hereby moves for a downward departure from the otherwise applicable U.S. Sentencing Guidelines total offense level. Mr. Nacchio submits that departure is warranted because of extraordinary circumstances concerning the effect that a lengthy period of incarceration will have on the health and potentially even the life expectancy of two of his immediate family members, and because of Mr. Nacchio's prior good works.

Many of the facts and circumstances related to these issues were addressed in the sealed Presentence Report submitted by the U.S. Department of Probation. Therefore, in support of his Motion for Downward Departure, Mr. Nacchio relies upon the reasons set forth in his Response to the Presentence Report (Section 3).

Respectfully submitted this 6th day of July, 2007.

s/Herbert J. Stern

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CERTIFICATE OF SERVICE

I hereby certify that on this *th day of July 2007, a true and correct copy of the foregoing **DEFENDANT JOSEPH P. NACCHIO'S MOTION FOR A DOWNWARD DEPARTURE PURSUANT TO 18 U.S.C. § 3553(b)(1) and UNITED STATES SENTENCING GUIDELINES § 5K2.0** was served on the following via the USDC CM/ECF system:

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s/Mark Rufolo _____
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