

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.

TENDERED FOR FILING
MARCH 15, 2007

Edward W. Nottingham
United States District Judge
by Jamie L. Hodges
Judicial Assistant/Deputy Clerk

REPLY TO GOVERNMENT'S RESPONSE TO MOTION FOR FORTHWITH STATUS
HEARING BASED UPON RECENT PREJUDICIAL PRETRIAL PUBLICITY

Defendant Joseph P. Nacchio, by and through undersigned counsel, replies to the government's Response to our Motion for Forthwith Status Hearing Based Upon Recent Prejudicial Pretrial Publicity as follows:

1. The government's attachment of various contemporaneous reports of the January, 2001 stock buy back misses the point entirely. For all that, Qwest itself made

public filings on the transaction. Our point is that this transaction has never been reported *in the context of this case*.

2. Our suspicions are grave and we hope unfounded but the circumstantial evidence of government involvement in this story is too troubling and the trial is too close to handle with a phone call. The fact that the story states “there appears to be no smoking gun” is an affirmative statement suggesting an assessment that could only be made by the prosecution.

3. In an effort to prevent meaningful jury selection the government has mischaracterized our position and the writings of counsel. Mr. Stern’s book teaches that there are two purposes for voir dire, one proper, the other improper. The proper purpose is to extract truthful information from jurors. The improper purpose is lawyers’ attempts to put information into the jurors’ minds before the trial. Our motion never asked for attorney voir dire, only voir dire of individual jurors, to ascertain what is already in their minds.

4. Our motion is made in good faith and seeks appropriate relief in the circumstances.

Respectfully submitted this 15th day of March, 2008.

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of March, 2007, a true and correct copy of the foregoing REPLY TO RESPONSE TO MOTION FOR FORTHWITH STATUS HEARING BASED UPON RECENT PREJUDICIAL PRETRIAL PUBLICITY was served on the following via email:

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