

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

Criminal Case No. 05-cr-00545-MSK

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. JOSEPH P. NACCHIO,

Defendant.

STIPULATION TO AMOUNT OF FORFEITURE

The United States of America, by and through its undersigned attorneys, and the defendant, Joseph P. Nacchio, and his undersigned attorneys, stipulate as follows:

The Tenth Circuit held that 18 U.S.C. 981(a)(2)(B) should be applied to calculate the amount of forfeiture. *United States v. Nacchio*, 573 F.3d 1062, 1088-90 (10th Cir. 2009). The parties hereby stipulate and agree that the proceeds statutorily subject to forfeiture in this case, under section 981(a)(2)(B), based on the jury's guilty verdicts on Counts 24 through 42, is \$44,632,464.38. The calculation, with deductions for fees and options costs, is set forth in the attached chart. This forfeiture amount reflects the gross proceeds from the defendant's sale of Qwest stock in the counts of conviction less the defendant's direct costs (except for taxes). This stipulation does not preclude Mr. Nacchio

from arguing that the amount of forfeiture statutorily authorized is constitutionally excessive.

AGREED:

s/Sean M. Berkowitz
Sean M. Berkowitz
Latham - Watkins, LLP
Attorneys for the Defendant

January 12, 2010
Date

s/James O. Hearty
James O. Hearty
Kevin Traskos
Assistant U.S. Attorneys

January 12, 2010
Date

DAVID M. GAOUCETTE
United States Attorney

s/James O. Hearty
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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of January, 2010, I electronically filed the **STIPULATION TO AMOUNT OF FORFEITURE** foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

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