

FILED WITH  
COURT SECURITY OFFICER  
3/1/07 *Langham*  
DATE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Criminal Action No. 05-cr-00545-EWN

UNITED STATES DISTRICT COURT  
DENVER, COLORADO

UNITED STATES OF AMERICA

MAR 01 2007

Plaintiff,

GREGORY C. LANGHAM  
CLERK

v.

**REDACTED**

JOSEPH P. NACCHIO,

Defendant.

**MOTION FOR DISCLOSURE OF NAMES OF WITNESSES  
WHO CAN VERIFY THE INFORMATION PROVIDED IN THE SUMMARY  
REPORT PRODUCED BY THE GOVERNMENT ON 2/28/07**

Defendant Joseph P. Nacchio, by and through undersigned counsel, and pursuant to Rule 16, *Brady* and CIPA Section 6(d), respectfully requests the Court order the government to produce the names of the individual or individuals who can verify the information provided in the Summary Report produced on 2/28/07, attached as Exhibit A.

Late this afternoon, we received the attached Summary Report. In as much as the CIPA hearing is set for March 1, time does not allow us the ability to fully address this issue by motion to the Court, we request the Court allow us to make a record on the deliberate withholding of *Brady* information which the government has had in its possession since at least October of last year.

The government has vehemently denied the correctness of Mr. Nacchio and Mr. Payne's account that they were asked to cooperate [REDACTED] regarding certain action. Whether or not the requested action was legal is beside the point. The issue is whether Qwest was denied work Mr. Nacchio reasonably believed it would have received because they [REDACTED]

The summary of the interviews, which occurred months ago but was withheld from us until today, demonstrates that our allegation is correct, that [REDACTED]

(Summary Report, p. 3).

The Court has previously ruled that [REDACTED] is inadmissible under Rule 403, but the fact is that there is no risk of prejudice or confusion. We say Qwest was deprived of opportunities [REDACTED] because it refused to do something [REDACTED]. The government previously denied that this was true, but now we know that there are witnesses within the government who can confirm our contention.

In order to provide us with the evidence we need, we ask the government be ordered to furnish the names of the individuals who furnished the information that appears in the Summary Report. The person or persons undoubtedly could not only confirm the contact, but could also articulate and specify the nature, scope and value of the work Qwest was deprived of as a result of the refusal.

SECRET//MR  
**SECRET**

(S) [REDACTED] REPORT

(S) [REDACTED]

[REDACTED] met at the United States Department of Justice in Washington, D.C. Also present were Assistant United States Attorney, William Leone, District of Colorado, Christopher Sinkins, Department of Justice, Counterespionage Section, John Dixon, Chief, Department of Justice Counterespionage Section and Berton Campbell, Department of Justice, Counterespionage Section. After being advised of the identity of the FBI agent, they provided the following information:

(S) Joseph Nacchio was cleared at the Top Secret, Sensitive [Compartmented] Information (TS/SCI) [level] through [REDACTED]. He was granted access by [REDACTED] in 1997. He was "voiced in" by [REDACTED] but not sponsored by them.

(S) [REDACTED]

(S) [REDACTED]

(S) [REDACTED]

(S) [REDACTED]

(S) [REDACTED]

**SECRET**  
 SECRET//MR

SECRET//MR

(S) [REDACTED] records show that Joseph Nacchio was cleared at the Top Secret/SCI level through another agency. [REDACTED] is aware that [REDACTED] in its proposed substitution, has indicated that the other agency was [REDACTED]. [REDACTED] records indicate it was [REDACTED]. Nacchio's clearances were certified [REDACTED] from 02/26/2001-12/31/2001.

(TS//SI-ECI [REDACTED]

(TS//SI-ECI [REDACTED]


(TS//SI-ECI [REDACTED]

(TS//SI-ECI [REDACTED]

SECRET//MR

**SECRET**

(TS//SI-ECI)



(S)



United States Attorney William Leone, Assistant United States Attorney James Hearty and Department of Justice attorney, Christopher Simpkins were present at [redacted] place of business. After being advised of the identities of the FBI agents, the following information was provided:

(S)



(S)

(S)

**SECRET**