

**FILED**

**United States Court of Appeals  
Tenth Circuit**

**UNITED STATES COURT OF APPEALS**

**FOR THE TENTH CIRCUIT**

**February 14, 2011**

**Elisabeth A. Shumaker  
Clerk of Court**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSEPH P. NACCHIO,

Defendant - Appellant.

No. 10-1286  
(D.C. No. 1:05-CR-00545-MSK-1)  
(D. Colo.)

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**ORDER**

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This matter is before the court on “Appellant’s Voluntary Motion to Dismiss Appeal.” The motion is granted. Each party shall bear its own costs.

A copy of this order shall stand as and for the mandate of this court

Entered for the Court,



ELISABETH A. SHUMAKER, Clerk

**NO. 10-1286**

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT**

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOSEPH P. NACCHIO,

Defendant-Appellant.

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**APPELLANT'S VOLUNTARY MOTION TO DISMISS APPEAL**

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Pursuant to Federal Rule of Appellate Procedure 42(b), Defendant/Appellant Joseph P. Nacchio hereby moves to dismiss the above appeal. Mr. Nacchio's Statement Pursuant to Local Rule 46.3 is attached as Exhibit 1. The United States does not oppose this motion. Each party shall bear their own costs on appeal.

DATED this 11th day of February, 2011.

Respectfully submitted,

s/ Nathan H. Seltzer

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Joseph P. Nacchio*

## CERTIFICATION OF DIGITAL SUBMISSIONS

With the exception of all privacy redactions required by the 10th Circuit General Order of March 18, 2009 regarding electronic filing, every document submitted in electronic form is an exact copy of the written document filed with the Clerk, and it has been scanned for viruses with the most recent version of a commercial virus scanning program McAfee VirusScan Enterprise + Anti-Spyware Enterprise 8.7.01 last updated on February 11, 2011, and, according to the program, is free of viruses.

## CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February 2011, true and correct copy of the foregoing **Appellant's Voluntary Motion to Dismiss Appeal** was sent to the persons listed below by digital submission via the 10th Circuit Court's ECF program:

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I further certify that I caused to be served the following non-CM/ECF registered users by FedEx:

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s/ Nathan H. Seltzer

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## EXHIBIT 1

NO. 10-1286

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOSEPH P. NACCHIO,

Defendant-Appellant.

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APPELLANT'S STATEMENT PURSUANT TO LOCAL RULE 46.3

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Pursuant to Tenth Circuit Rule 46.3, I, Joseph P. Nacchio, respectfully state the following:

1. I, Joseph P. Nacchio, am the Defendant/Appellant in Case No. 10-1286.
2. I understand that I have a right to appeal my case to this Court.
3. I am knowingly and voluntarily electing to withdraw the appeal.

Respectfully submitted,

  
Joseph P. Nacchio

Dated: Feb 1, \_\_\_\_\_, 2011