



For Immediate Release

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WLF URGES APPEALS COURT TO REVERSE INSIDER TRADING CONVICTION

(United States v. Nacchio)

The Washington Legal Foundation (WLF) filed a brief today in the U.S. Court of Appeals for the Tenth Circuit in Denver, Colorado, urging the court to reverse the conviction and six-year prison sentence of Joseph P. Nacchio, former head of Qwest Communications for insider trading in his company's stock. The outcome of the case will have a significant impact on the level of knowledge and the materiality of information about a corporation's finances that are necessary to charge and convict an executive or a corporation of securities fraud.

In *United States v. Nacchio*, the former Qwest executive was acquitted on 23 counts of securities fraud but convicted on 19 other counts for trading on inside information. The court sentenced Mr. Nacchio to six years imprisonment, fined him \$19 million, and denied him bail pending appeal. The Tenth Circuit overturned the decision regarding bail and released Mr. Nacchio during the appeal process.

In its brief on appeal supporting Mr. Nacchio, WLF argues that the inside information that Mr. Nacchio allegedly possessed was not material information that was required to be publicly disclosed but rather was "soft" information, namely, subjective predictions about the company's future financial prospects. Furthermore, the trading of the stock in question occurred *before* Mr. Nacchio even acquired the information. Finally, the jury instructions -- that the jury could ignore Mr. Nacchio's good faith defense that he relied on advice from company lawyers and others that the trades were lawful -- eviscerated a valid defense and essentially allowed the jury to convict even though there was no proof that Mr. Nacchio possessed the requisite criminal intent.

"This case raises fundamental issues of fairness and Due Process that affect not only securities trading, but also the corporate community in general," said Paul Kamenar, WLF's Senior Executive Counsel. WLF regularly participates in major cases such as this, including the *Arthur Andersen* case where the Supreme Court reversed the conviction of the company for faulty jury instructions similar to the ones in the *Nacchio* case.

WLF's brief was filed with the *pro bono* assistance of David S. Hoffner, Andrew J. Levander, Jason O. Billy, and David P. Staubitz of Dechert LLP in New York, and Michael L. Kichline of Dechert's Philadelphia office. Oral argument in this case is scheduled for December 18, 2007.

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For additional information, contact Paul Kamenar, WLF's Senior Executive Counsel at 202-588-0302. A copy of WLF's brief is posted on its website at www.wlf.org.