



THE RETIREE GUARDIAN

“the voice of 48,000 retirees in all 14 U S WEST/Qwest states”

Newsletter of the Association of U S WEST Retirees
www.uswestretiree.org or www.qwestretiree.org

2008 Issue 1

2008 — Time to Get Involved!

2008 is a critical election year, especially for retirees.

As we start 2008 who can escape the barrage of political rhetoric blasting at us from all of the news media? Throughout 2008 we will be overwhelmed by all of the hype around candidates and issues, and the temptation may well be to tune it all out, or just ignore it. *Please do not!*

Vote.. and go out there and get involved! We have a lot at stake!

As we elect a new President, we also must consider the other legislators in both state and federal elections. We are losing big time on the benefit takeaways by major corporations and the unfavorable rulings in the courts. We must send people to Washington who understand our plight. People who will help us restore lost benefits. People who will



Mimi Hull
President,
Association of
U S WEST /
Qwest Retirees

prevent further erosion of the benefits that we each worked a lifetime to earn.

To make sure our interests are heard and regarded, we all need to become active in the political process. Evaluate your time. Think about volunteering to work for the candidate or candidates that you believe will be supportive of the solutions that will work best for the problems facing seniors. For example, the biggest issue facing retirees may be the rising costs of health care. What is the plan for health care

that you will support? Who represents your best interests? On page 6 read the Grassroots article to learn more.

The U S WEST/Qwest post-1990 management retirees became the first to feel the decisions of Qwest Communications to shift 100% of

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WE WERE THE OPERATORS AND REPAIR CLERKS, THE INSTALLERS AND LINEMEN, THE ENGINEERS AND NETWORK PLANNERS, THE CRAFT AND MANAGEMENT EMPLOYEES OF EVERY DESCRIPTION WHO BROUGHT TELECOMMUNICATIONS TO THE HOMES, BUSINESSES, AND INSTITUTIONS OF 14 STATES. NOW WE ARE UNITED IN OUR COMMITMENT TO PRESERVE AND ENHANCE THE RETIREMENT BENEFITS PROMISED TO US AND TO THOSE WHO FOLLOW US AS TODAY'S ACTIVE EMPLOYEES.

PIN numbers mailed for 401k Nacchio settlement payouts

401-k Settlements Mailed

Did you receive a PIN number from Qwest recently? Are you entitled to monies from your 401k losses during the Nacchio-control era?

There was a 401k settlement on December 20, 2007 regarding losses while Nacchio was in power. In the mail, you may have received from Qwest a PIN number without an explanation.

This PIN will allow you to access the information regarding your refund. The PIN number comes in the mail. When the PIN number is received, you will not know what it was for because there is no explanation in the envelope. A second envelope should follow in a few days with an explanation and who to call for information.

The number to call to check on your 401k refund status is 1-800-949-1640. You will be

asked your Social Security number, your address and other information.

If you did not keep the PIN number or you did not receive one in the mail, you can find out the amount placed in an account for you. You can request a replacement PIN to access the account. You cannot get the money unless you have a PIN. Call the 1-800-949-1640 for a PIN.

You only have 90 days to respond. After that the monies in the account will roll-over to a Citibank IRA, and you will need to withdraw the amount from that account.

If you are under 59-1/2 years old, there may be a reduction to take the money because of tax liabilities on withdrawals. Please consult your tax advisor before making any decisions on the withdrawal from the Qwest 401k account or from the IRA if you rollover the monies.

(President's Message ...continued from page 1...)

health care inflation. For the management retirees, depending on which plan the retiree participates in, they face higher co-pays for doctor and hospital visits and much higher deductibles.

With the 2008 union bargaining just around the corner, previously bargained-for retirees may face the same health care crisis situations.

The recent Labor Department EEOC rule change allowing companies who provide different benefits for their over 65 retirees than the under 65 retirees prevents charges of age discrimination. The door is open for companies to cancel all supplemental coverage once a retiree becomes Medicare eligible.

The largest impact for us is that we

would most likely lose prescription drug coverage and would revert to a Medicare Part D type of plan that would be much more costly.

See pages 3-4 for more details on the EEOC ruling and effects on AUSWR retirees.

Thank you, *Mimi Hull*

2007 AUSWR Officers

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<i>President</i> —	Mimi Hull
<i>Regional Vice Pres -Legislation</i> —	Hazel Floyd
<i>Treasurer</i> —	Roger Sanger
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Litigation Attorney — **Curtis L Kennedy**

EEOC Ruling Implications



by Curtis L. Kennedy,
AUSWR Litigation Attorney

In December 2007, the U.S. Equal Employment Opportunity Commission (EEOC) announced its publication of a *final* rule allowing employers that provide retiree health

benefits to go ahead and reduce or completely eliminate all health care benefits once retirees turn age 65 and become eligible for Medicare benefits.

In other words, since retirees age 65 and older can receive Medicare benefits, employers should feel free to provide better health care coverage for their younger retirees and active workers.

The EEOC reasons that by allowing employers to discriminate and treat older retirees less favorable, employers might have an incentive to continue to offer health care benefits for other younger retirees and active employees.

EEOC Chairman Naomi C. Earp says that "Implementation of this rule is *welcome* news for America's retirees, whether young or old."

The EEOC proposed the rule in response to a controversial decision in 2000 by the U.S. Court of Appeals for the Third Circuit in *Erie*

County Retirees Association v. County of Erie. The federal appellate court held that the Age Discrimination in Employment Act (ADEA) requires that the health insurance benefits received by Medicare-eligible retirees be the same, or cost the employer the same, as the health insurance benefits received by younger retirees.

After the *Erie County* decision, huge corporate employers actively lobbied and informed the EEOC that complying with the decision would force numerous large companies to reduce or completely eliminate health benefits they currently provided for all retirees. The corporate employers whined

that if they had to keep providing equally beneficial benefits for their legacy liability retirees, they would probably just choose to not provide retiree health care benefits to any retirees.

Therefore, the EEOC which federal agency is supposed to champion the rights of older workers and older retirees by enforcing the ADEA, bought into the corporations' threats and

decided to accommodate the wishes of corporate employers and, therefore, proposed the current rule.

But, as you know, the American Association of Retired Persons (AARP) took the EEOC to federal court in 2005 and tried to stop implementation of the proposed rule.

(...continued on page 4...)

...should Qwest choose to go that route, [the EEOC ruling] starting with enrollment into year 2009 health care plans, the company will *not* be able to take away or reduce health care coverage for Pre-1991 Retirees and the group of about 200 1992 ERO retirees. Those two groups of U S WEST retirees, even if Medicare eligible, have guaranteed coverage that AUSWR successfully fought for back during 1995-1996, and that coverage cannot be reduced.

see: [http://www.uswestretiree.org/LifetimeGuarantee\(Phelps\)Info.pdf](http://www.uswestretiree.org/LifetimeGuarantee(Phelps)Info.pdf)

EEOC Ruling Impacts

(...continued from page 3...)

In AUSWR publications, there have been several prior reports about the EEOC litigation in the lower federal court and the federal appellate court.

Ultimately, the federal appeals court found the EEOC's proposed rule was completely within the authority of the EEOC and that rule was "a reasonable, necessary and proper exercise of [EEOC's] authority." The case, *AARP v. EEOC*, is presently awaiting a decision by the U.S. Supreme Court whether to review the matter, i.e., grant certiorari review.

Meanwhile, several large corporations, including Lucent, have already started to discriminate against Medicare eligible retirees by completely cutting off those retirees from receiving better health care benefits coverage provided under the employer's health care plan.

The EEOC contends the new rule has the support of key members of Congress, as well as the Society for Human Resource Management, the AFL-CIO, the American Federation of Teachers, the National Education Association, the American Benefits Council, and other influential groups. Naturally, the EEOC doesn't acknowledge countless other groups and organizations that oppose the new rule.

The new rule allowing discrimination

against Medicare eligible retirees was published in the December 27, 2007 *Federal Register* and you can see the same at: <http://edocket.access.gpo.gov/2007/E7-24867.htm>

Surely, in the days ahead, you will be reading more about this as the news media start actively reporting about the matter.

If the new EEOC rule is not stricken down by the U.S. Supreme Court, and Congress chooses to do nothing about the situation, expect to see more companies throughout the U.S. eagerly abandon health care benefits coverage for all their Medicare eligible retirees. However, should Qwest choose to go that route, starting with enrollment into year 2009 health care plans, the company will *not* be able to take away or reduce health care coverage for Pre-1991 Retirees and the group of about 200 1992 ERO retirees. Those two groups of U S WEST retirees, even if Medicare eligible, have guaranteed coverage that AUSWR successfully fought for back during 1995-1996, and that coverage cannot be reduced. See: [http://www.uswestretiree.org/LifetimeGuarantee\(Phelps\)Info.pdf](http://www.uswestretiree.org/LifetimeGuarantee(Phelps)Info.pdf)



Curtis

CurtisLKennedy@aol.com

303-770-0440

Curtis,

Thanks for your excellent summary of this EEOC situation. The Lucent health care plan has changed significantly ...in 2008. The prescription coverage ... is structured just like Medicare Part D – donut hole and all!

For the Lucent Medicare eligible retirees,

they no longer have better coverage than Medicare and will now have to rely on a supplement or head south of the border.

I hope that all retirees are willing to rally around and fight this erosion...

Many thanks, *Donnetta*
Donnetta Mitchell, AUSWR Utah President

Qwest Settles Errors in Retiree Health Plan

Again the watchful eye of Curtis Kennedy keeps our benefits protected.

He noted that a falsely worded Summary of Material Modifications (SMM) for the Qwest Health Care Plan document was sent to all retirees in December 2007. The SMM falsely states the Company can do anything it wants to do with respect to the health care benefits rights of all retirees.

After exchanges between AUSWR Litigation Attorney Curtis L. Kennedy and Qwest Plan

Administrators, a compromise was reached that correctly modified the plan documents, and a letter was received from Qwest (see below) confirming the corrections.

Curtis replied to Qwest, giving them thanks for resolving this issue in a timely manner.

To read the Qwest letter go to:
<http://www.uswestretiree.org/January%2028%202008%20-%20Qwest%20letter.pdf>.

"...Plan participants demand Qwest, as sponsor to the Qwest Health Care Plan, and Plan Administrators forthwith (within the next 30 days) distribute a corrected SMM to all Plan participants correcting the blatant misrepresentation about the company's "Right to Amend." In the event of noncompliance with this demand, Plan participants will immediately commence a federal court action for all equitable remedies as is allowed under ERISA and DOL regulations, including seeking a court order imposing a daily penalty upon the Plan Administrator in the amount of \$110, as allowed by ERISA Section 502(c)."

—letter from Curtis L. Kennedy, AUSWR Litigation Attorney, to Qwest Health Care Plan Administrators who failed to publish correct information in the 2008 Summary Plan documents mailed to all retirees.

Qwest Communications
1801 California Street, Suite 600
Denver, Colorado 80202
Phone (303) 308-5174
Facsimile (303) 383-8471

Joan M. Brown
Corporate Counsel

January 28, 2008

Curtis L. Kennedy, Esq.
8405 E. Princeton Avenue
Denver, Colorado 80237-1741

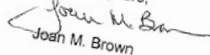
RE: Qwest Health Care Plan and the Health Coverage Commitment for Certain Retirees
Dear Mr. Kennedy:

We understand from your recent correspondence with Ms. Felicity O'Herron and from our legal counsel, Christopher Koenigs, Esq., that the recent mailing of the "2008 Summary of Annual Reports and Summary of Material Modifications 2008 Plan Year - Important Benefits Notices" distributed December 2007 (the "SAR-SMM") has caused concern among your clients. This was not intended nor was it anticipated as this mailing format has been used before in prior years. The SAR-SMM was mailed to all participants on behalf of each of the various employee benefit plans to satisfy disclosure requirements under ERISA and to minimize plan expenses and hold down costs for those participants who pay for their coverage. We felt the SAR-SMM adequately explained that it was not applicable to all participants, in part because the combined mailing had not previously resulted in confusion or complaints from participants.

We acknowledge that the recently issued SAR-SMM on page 6 under the heading "Right to Amend" contains a statement that "Qwest has reserved the right in its sole discretion to change, modify, discontinue or terminate the Plans [defined to include the Health Plan] and/or any of the benefits under the Plans with respect to all participant classes, retired or otherwise, at any time without prior notice, subject to applicable laws and collective bargaining agreements." We acknowledge there was no specific mention of the Health Coverage Commitment for Pre-1991 Retirees and 1992 ERO Retirees. However, the SAR-SMM was not intended to, and does not in any way, erode or encroach upon the Health Coverage Commitment which is set forth in Appendix 6 of the Qwest Health Care Plan and, to my understanding, has been a part of the plan since 1996. We have provided you, on behalf of various retirees, with the plan document as it has been updated over the years and we understand that the document is posted on the Association of U S WEST Retirees website in its entirety for your clients to review.

Certainly, Qwest did not intend to create concern among our participants about the Company's Health Coverage Commitment to the Pre-1991 and 1992 ERO Retirees. As stated, the Commitment is memorialized in the plan documents and will be again explained to the Pre-1991 and 1992 ERO Retiree participants in their Summary Plan Descriptions when re-issued.

Sincerely yours,


Joan M. Brown

Felicity O'Herron, Vice President, Human Resources
Erik P. Ammudown, Director, Health, Disability & Life Benefits

Legislation Grassroots

by Hazel Floyd, AUSWR Vice President

2008 – Presidential Election Year!

Now is the time to register to vote for the important leader of our country according to your own opinions. Please take the time to find out about your local elections and who will represent you in Congress. Now is the time to become informed on the plans and policies of each candidate. For those AUSWR members who have access to the Internet, here are several informative resources for you.

Information About the Candidates:

We retirees need to know all the plans and policies of all the candidates, and now that there are less candidates, here are locations for you to access. You can select the issues that you rank most important when considering your vote. For example, each candidate has extensive information on their healthcare plans.

Clinton: <http://www.hillaryclinton.com>

Huckabee: <http://www.mikehuckabee.com>

McCain: <http://www.johnmccain.com>

Obama: <http://www.barackobama.com>

Paul: <http://www.ronpaul2008.com>

Other recommended resources:

The Kaiser Network gives an excellent Daily Update for Washington activities on Health Care issues nationwide. It includes prominent media articles, in addition to what transpired in the Senate and House during the previous day. You may sign up at www.kaisernetwork.org. If you wish Weekly Updates from the Kaiser Family Foundation you may receive those at www.health08.org which covers Healthcare Election news, analysis and events.

The Alliance for Retired Americans publishes a Friday Alert each week that you may sign up for at www.retiredamericans.org. The AARP Divided We Fail movement has a link to Debate Tracker on both parties at www.aarp.org/issues/dividedwefail/.

If you do not have access to the Internet, please call your AUSWR State Legislative Leader, whose telephone number is listed below. He or she will be able to give you the telephone number and location of each of the Political Parties in your state where you can get answers about registering and voting.

Finally, as new issues arise or come to the attention of the candidates, we will be sure to update you concerning their positions.

AUSWR State Legislative Leaders

State Legislative Leader Contact Information

Roger Sanger – Arizona	rasanger@qwest.net	480-994-0081
Joe Halpern – Colorado	joehalpern@msn.com	303-761-7529
Gary Lewis – Idaho	mydodo@msn.com	208-888-4519
Ray Peterson – Iowa	jandrpete@aol.com	515-274-0082
Dick Johnson - Minnesota	ROKJohnson@aol.com	763-757-1962
Tom Simpson – Montana	thoimass@cybernet1.com	406-642-3966
V. K. Ramsey – Nebraska	vkramsey@tconl.com	402-298-2821
Mack Haley – New Mexico	mwhaley@zianet.com	505-322-2716
John Postovit – North Dakota	johnnandardis@msn.com	701-232-6401
Darrell Bender-South Dakota	d.i.bender@abe.medco.net	605-845-7550
Hy Bradley – Utah	bradleyhy@msn.com	801-543-4488
Judy Stenberg - Wash/Oregon	PECPresident@msn.com	425-476-5428
Melanie Palmer – Wyoming	pm1370@qwest.net	307-637-3007
Bonnie Murphy-Wisconsin	bemurphy41@sbcglobal.net	414-672-8759

...and the beat goes on waiting for responses & rulings

Retiree Advocate News

by Howard Rickman,
AUSWR Ombudsman

DENTAL PLAN:

It was called to our attention that many retirees had received a letter from the Met Life Dental Plan notifying them that their dental coverage had been cancelled. In addition, their respective Dentist had also received a letter notifying them that this patient no longer had dental coverage.

The problem has been corrected, but we felt you should be made aware of it because we know that there are retirees out there that think their coverage has indeed been cancelled. Met Life will be notifying those involved that the problem has been corrected

Briefly, at the end of each year, Met Life has an established procedure to cancel all coverage, and then push a button, so to speak, and activate the coverage for the new year. Something happened this year that kept a number of cancellations still in place. Met Life became aware of this and immediately corrected the condition, however many letters had already been sent out..

If you have any questions or concerns, contact the Qwest Service Center and select the Dental option. They are well aware of the problem and will gladly help in any way.

NEXIUM UPDATE:

As of January 30, 2008, no determination has been made REGARDING RESTORING COVERAGE for Nexium. Indeed, we have heard nothing. I had mailed sev-

eral documents to Qwest Benefits, but they were not "FOUND" until some time after the New Year. Another retiree had also mailed several documents, including formal letters from physicians, reiterating the fact that NEXIUM was the only drug on the market that claimed to help restore the damaged esophagus also known as "Damaged by Acid Reflux, stomach acid." There are several additional documents that have been sent to Qwest Benefits and we are awaiting there review and determination before we go further.

Of major interest is the fact that only the Nexium capsules are not covered by UHC/Medco/Qwest. The notice sent to those who were or are on Nexium did not differentiate that only the capsules were not covered by the prescription plan and the notice on Medco's website does not give that indication either. However, if you go to the "Request for the Price" of a medication and ask about Nexium, you will discover that while the capsules are not covered, an "individual serving" is provided by a powdered packet in 20 mg or 40 mg doses at the same price that the Nexium capsules used to cost. This was discovered by a Colorado retiree's doctor and several retirees have already had their physician order this item and have it filled immediately

We do not know if this was an oversight or not. We also have been made aware that several retirees' physicians have prescribed the Nexium capsules both the 30 and the 90-day supplies, and they have been received at little or no charge depending on the plan which covers them. (I personally have my first 90-day supply).

RETIREE ADVOCATES "Here to Help You"

- ▶ If you have questions about your benefits, contact the **Qwest Benefit Office** at **1-800-729-7526**.
- ▶ Select **Option 2** for retirees, then select the appropriate options on the menu. 1.
- ▶ The address for the Benefit Office is: **Qwest Benefits, 1801 California St., Denver, CO 80202**.
- ▶ If you are unable to resolve your problem after contact with Qwest, contact your Retiree Advocate:

AUSWR Retiree Advocates					
Arizona	Don Gillespie	602-275-4213	No Dakota	Arnie Pauls	701-451-0771
Colorado/Wyo	Jim Heinze	303-442-1831	Minnesota	Barb Hermanson	763-757-4985
Idaho/Montana	Shirley Moss	208 342-3449	Oregon	Barbara Brown	541-382-5544
Iowa/So Dakota	Vikki Farrand	605-332-3670	Oregon	Howard Rickman	503-646-4848
Nebraska	Milt Jenner	402-333-4455	Utah	Dick Johnson	801 963-6220
New Mexico	Jim Heinze	303-442-1831	Utah	Byron Lemmon	801 295-4653
			Washington	Shirley Jones	206-368-8686

Legal Update

Pending Cases Against Qwest Senior-level Officers

*by Curtis L. Kennedy,
AUSWR Litigation Attorney*

This is an update concerning several remaining civil and criminal cases pending against former Qwest senior level officers. All cases are pending in Denver Federal Court.

SEC v. Joseph Nacchio, et al: The United States Securities Exchange Commission (SEC) continues to pursue the lawsuit filed in March 2005 against Mr. Nacchio, Frank T. Noyes, Robert S. Woodruff, Robin R. Szeliga, Afshin Mohebbi, Gregory M. Casey and James J. Kozlowski. The SEC filed the case on March 15, 2005, contending the defendants engaged in a \$3 billion financial fraud between 1999-2002. To date, settlement agreements have been reached with Mr. Casey and Ms. Szeliga and they are dismissed from the case.

The five remaining defendants are clinging to the "black-box" defense first utilized by Mr. Nacchio in his criminal case proceedings. For instance, they contend Qwest had to buy up all the extra fiber optic capacity, which the SEC contends was part of the fraudulent scheme, due to the need to get ready for a huge top secret contract Qwest expected to win with the U.S. government. On February 4, 2008, another status conference was conducted by Federal Magistrate Judge Craig Shaffer and he encouraged the SEC to consider amending its complaint and dropping some of the allegations and claims which necessarily trigger the "black-box" defense, so as to streamline the case. The SEC now has 30 days to make a decision on changing the complaint.

During the past 3 years, numerous defense attorneys have come and gone from the case. And the case has taken a toll on SEC counsel, as well. When SEC counsel Robert Fusfeld left during mid-2006, he interviewed with *The Denver Post*, which newspaper quoted Mr. Fusfeld making these criticisms about the case:

"The practice of law has gotten really nasty in the last several years. . . . Defense lawyers will say and do anything. . . . There's an awful lot of scorched earth litigation. There are more of them (nasty lawyers today) that weren't breast fed and are pathologically aggressive. They clog the courts with meaningless motions, make accusations that are patently untrue, take harassing depositions – and they always seem to do this during the end of a month when they need to make their quota of billable hours. I can't believe some of the things their clients pay for."

Of course, defense counsel protested and demanded the trial court judge admonish Mr. Fusfeld and make him issue a meaningful retraction. But, by order dated September 27, 2006, Federal Judge Marcia S. Krieger declined, stating, "to the extent [defense counsel] simply wants the Court to intervene to prevent uncivil exchanges between counsel or between the parties, the Court declines to do so."

Interestingly, at February 4 court hearing which lasted just under two hours, there were 13 defense attorneys either present in person or by telephone. Unfortunately, due to the senior officers' indemnification agreements with Qwest, all defense costs and all attorney's fees are still

(...continued on the next page...)

Cases Pending Against Qwest Officers

(...continued from page 8...)

being paid by Qwest out of operating revenues.

There is no scheduled trial date.

In re: Consolidated Federal Securities Cases: As you know, in late September 2006, Denver Federal Judge Robert Blackburn approved a \$400 million shareholder class-action settlement against Qwest. AUSWR was involved only to the extent of trying to persuade Judge Blackburn not to award excessive attorney's fees. The attorneys for the shareholders had asked for \$96 million. AUSWR argued that the fees should be reduced to no more than \$60 million, and that is what Judge Blackburn allowed. But, the Settlement Fund has not been paid to shareholders due to an appeal filed by Joseph Nacchio and former Qwest CFO Robert Woodruff, who were excluded from the settlement. In other words, the case is going forward in an effort to recover significant personal monies (millions) from both Mr. Nacchio and Mr. Woodruff. So, Nacchio and Woodruff appealed the case, thus, hanging up the Settlement Fund due to be paid to the shareholders.

On appeal, Nacchio and Woodruff argued that the matter had to be revisited by the trial court because the trial judge had approved the settlement terms they had challenged, not based upon his independent reasoning or analysis, but merely on the basis of "the reasons stated, arguments advanced, and authorities cited by Qwest" in its papers filed with the trial court.

Last month, a panel of three judges for the Tenth Circuit Court of Appeals ordered the case be sent back to Denver Federal Judge Blackburn who must explain why he decided it was

fair to exclude Nacchio and Woodruff from the settlement. The appellate court in a 2-1 ruling said, "We need something to show *how*, and on what basis, the court analyzed Mr. Nacchio's and Mr. Woodruff's objections, in a form other than Qwest's argument. A remand of this case is the only way to ensure that we get it."

Therefore, they ordered Judge Blackburn to "illuminate" and "provide a more extensive explanation" for the decision to overrule Nacchio's and Woodruff's objections.

Alas, one appellate judge disagreed saying, that by adopting the arguments set forth in Qwest's legal papers, the appellate court adequately discern the basis for the district court's decision - just by reading the arguments and authorities cited in Qwest's legal briefs.

The dissenting judge said that sending the case back to the trial court just so he can combine all of his reasoning into another single document only serves to cause "needless delay in a case already more than six years old."

A copy of the appellate courts' January 16, 2008 decision is posted at the AUSWR website: <http://www.uswestretiree.org/Docket1110-10th%20Circuit%20Decision%20011608.pdf> Presently, the case is awaiting further proceedings by Denver Federal Judge Blackburn.

U.S. v. Joseph Nacchio: There are no new developments to report concerning the appeal of Nacchio's criminal conviction. He remains free on bond. On December 18, 2007 a three judge panel of the Tenth Circuit Court of Appeals conducted an oral argument hearing.

A decision is expected within the next several months.

...A Brief Update

Pension Death Benefits & Basic Life Insurance Benefits

by Curtis L. Kennedy, AUSWR Litigation Attorney

If it isn't already apparent to you, it should be stated here that the Government is *not* watching out for your interests and stopping Qwest from taking away or reducing the package of benefits promised during your retirement.

AUSWR has two fights pending against Qwest leadership who picked these fights, first by announcing the intent to end the Pension Death Benefit for all retirees, then, by reducing the basic life insurance benefit for all retirees to a mere \$10,000.

We have two cases pending in Denver Federal Court, and both cases are ripe for decisions by the federal judges.

All of the important court filings for both cases are posted at the AUSWR website on the "Legal Developments" page.

Kerber v. Qwest Pension Plan

(Pension Death Benefit- "PDB"):

This case awaits a significant ruling by Judge Boyd Boland. In a nutshell, Qwest contends the PDB is a mere gratuity, a welfare benefit that can be taken away at the whim of Qwest leadership. We contend otherwise. The historic Plan documents classified the PDB as not being an unfunded welfare benefit. As more fully explained in our court filings, the PDB was represented and treated by Plan sponsor U S WEST to be a protected defined pension benefit.

Moreover, when U S WEST created a new optional form of early retirement benefit - a single sum payment - the PDB was made an integral part of the lump sum payment, thus, proving that U S WEST considered the PDB to be a protected benefit.

During the 1990 5+5 offering and again from 1997 through December 2003, the PDB was a significant part of the lump sum payment given to over

15,000 Plan participants. Others who didn't elect or have the opportunity to receive a lump sum distribution, took the monthly annuity with the promise that the PDB would be paid to a qualified beneficiary.

Therefore, we contend that when Qwest ended the long standing practice of providing Plan participants the option of receiving a single sum distribution enhanced by the dollar value of the PDB, Qwest effectively violated both the Internal Revenue Code and the federal law ERISA because Qwest *wrongfully*:

- 1) reduced an early retirement benefit;
- 2) eliminated a retirement-type subsidy; and
- 3) eliminated the U S WEST designed optional form of benefit and substituted a lesser valued optional form of lump sum benefit as of January 1, 2004.

Back on September 1, 2003, there was a signed letter already stuffed in envelopes with postage prepaid, ready to mail to all retirees. In that letter, Qwest announced the end of the PDB for all retirees. But, AUSWR stepped in, that letter was never mailed and this fight is now in its 5th year. AUSWR's actions have directly benefited hundreds of AUSWR families which have received the promised PDB. We have asked Judge Boland to rule for the continued preservation of the PDB and we expect some rulings from him within the next few months.

Kerber v. Qwest Group Life Insurance Plan

(Basic Life Insurance Benefit):

We contend that when former CEO Dick Notebaert ordered the basic life insurance benefit reduced to a mere \$10,000 for every retiree, the rules put in place

(...continued on the next page...)

"...incredulously, there are no co-sponsors in the U. S. Senate..."

Senator Tom Harkin of Iowa Introduced Legislation to Ensure Retirement Security for American Workers

On June 28, 2007, Senator Tom Harkin (D-IA) introduced legislation to protect Americans' pensions and ensure workers receive the retirement benefits they are entitled to.

The "Restoring Pension Promises to Workers Act of 2007" would restore basic fairness to America's pension system by forcing corporations that provide lavish executive pension arrangements to also provide a guaranteed, defined benefit plan for the rest of their employees.

The bill would also enact a number of other reforms to help ensure Americans' pensions will be there for them when they retire, including protecting benefits for employees when companies merge or change ownership.

"More and more companies, even those with a healthy bottom line, are telling workers they can no longer afford to provide them with the benefits they had been promised," said Harkin. "But at a time when employees' retirement security is anything but secure, things are looking rosy in the corporate board room, where our nation's corporate elite make sure that they have pensions, higher incomes and other benefits so generous that Midas would have been embarrassed. This is just plain wrong."

Despite rising corporate profits in recent years, many workers have had their pensions frozen. Many employers have convinced workers that they cannot afford pensions, while awarding top
(...continued on the next page...)

(...Legal Update continued from page 10)

by U S WEST were directly flouted and violated. The rules couldn't be any clearer. They say, basic life insurance benefits "*shall not be reduced below*" \$20,000 for any retiree who retired before January 1, 1996 and basic life insurance benefits "*shall not be reduced below*" \$30,000 for any retiree who retired on or after January 1, 1996. "No" means "No." Doesn't it?

Nevertheless, Qwest leadership have scoffed at retirees' numerous impassioned letters to do the right thing and abide by the rules, as Qwest leadership contend they can do anything they want to do to the life insurance benefit. The reductions save Qwest about \$20 million per year. We have strenu-

ously opposed Qwest's request to Denver Judge Walker Miller to dismiss our case. We expect Judge Miller to issue his ruling before the end of this year.

Meanwhile, family members and other beneficiaries of deceased retirees paid only the minimum \$10,000 basic life insurance benefit should mail me copies of papers showing the reduced payment received. All retirees - Occupational and Management, should continue to support AUSWR's most laudable efforts to restore basic life insurance coverage for everyone, about 48,000 persons.

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Senate Bill to Protect Retiree Benefits

(...continued from page 11...)

executives very lucrative non-pension benefits that function as pensions previously did.

Harkin's bill would ensure that employers who can afford gold-plated pensions for executives also provide a pension for the workers who generated the profits in the first place.

"Right now, the law says that if a company provides a pension plan to executives, then it must also provide a pension to at least 70 percent of other employees. But many companies are getting around this requirement by setting up so-called non-qualified deferred-compensation plans — some of them extremely lavish -- for executives. Of course, these deferred-compensation plans are really just pensions by another name, but this loophole allows employers to skirt the law and deny pension benefits to rank-and-file workers."

Detailed Summary of S. 1725

Restoring Pension Promises to Workers Act - Amends the Internal Revenue Code to require the inclusion in gross income of all income previously deferred under a non-qualified deferred compensation plan if an employer maintaining such a plan fails to meet certain participation, vesting, and

...this is your opportunity to be involved in legislation to protect you and all future retirees.

Read page 6 to find out how — and take action!

Contact your U. S. Senators and let them know that you want them to co-sponsor the Harkin legislation.

minimum benefit requirements.

Amends the Employee Retirement Income Security Act of 1974 (ERISA) to:

- (1) deny ERISA pension plan administrators the right to recover overpayments made to plan participants and beneficiaries in cases of hardship or insignificant amounts;
- (2) impose a three-year limitation period for bringing any action to recover an overpayment;
- (3) prohibit the elimination of accrued pension plan benefits during corporate mergers and acquisitions; and
- (4) establish in the Department of Labor an Office of Pension Participant Advocacy to protect pension plan participants.

Amends federal employee personnel provisions to:

- (1) entitle former spouses of federal employees who die before establishing a valid claim for an annuity to 55% of such deferred annuity or a lump-sum payment;
- (2) permit divorced spouses of federal employees to collect court-awarded retirement benefits when such employees are first eligible to retire (currently, only available at the time the employee actually retires);
- (3) entitle certain former spouses of retired federal employees divorced prior to September 14, 1978, to a survivor annuity; and
- (4) give priority to a surviving spouse of a federal employee in the distribution of balances in a thrift savings account, unless such spouse consents to the designation of another beneficiary.

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