2008 Issue 4

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

Pension Death Benefit Case Now on Appeal

On September 19, 2008, less than a month after the Lucent retirees lost their case *[Foss v. Lucent]* to get Pension Death Benefits restored, Denver Federal Magistrate Judge Boyd Boland adopted the ruling and outcome of the *Foss v. Lucent* case and, he too, entered a summary judgment ruling in favor of Qwest.

Report by Curtis Kennedy, AUSWR Litigation Attorney

The *Kerber v. Qwest* Pension Plan case is now on appeal to the Tenth Circuit Court of Appeals.

Judge Boland ruled that the Pension Death Benefit, despite how it was characterized, actuarially funded and administered for decades, is a mere 'welfare benefit', not protected by ERISA. Judge Boland came to this conclusion despite all the evidence we presented in the *Kerber* case that U S WEST intended to give special protection or vest the benefits.

Therefore, Judge Boland has ruled that Qwest is free to end the practice of paying Pension Death Benefits from the pension plan, regardless of when persons retired and regardless of whatever was told to them.

In the *Kerber* case, we had submitted a plethora of arguments and evidence showing that the Pension Death Benefit, established by AT&T was designed and treated as a defined pension benefit for over 40 years, and that Qwest had no right to eliminate it.

But, Judge Boland disagreed, ruling that the evidence showed that the Pension Death Benefit does not meet ERISA's

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

INSIDE

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.

(...Death Benefit ...continued from page one…)

definition of a pension benefit. The Pension Death Benefit neither provides retirement income to employees nor results in a deferral of income by employees, Judge Boland opined.

Moreover, he stated it could not be an accrued pension benefit since it is not 'an annual benefit' and it does not 'commence at normal retirement age.' He stated that the Pension Death Benefit does not vest until the retiree dies, meaning it can be eliminated any time before death occurs.

We tried to impress upon Judge Boland that the facts and claims in the *Kerber v. Qwest Pension Plan* case are remarkably different than those facts and claims in the *Foss v. Lucent* case. As repeatedly explained in court filings, including Plaintiffs/Retirees brief opposing Qwest Defendants' pending motion for summary judgment, unlike the situation in *Foss*, the Pension Death Benefit at issue in *Kerber* was represented and treated by Plan sponsor U S WEST to be a protected defined pension benefit.

Qwest Pension Plan opening brief is due to the Tenth Circuit Court Friday, December 19, 2008, unless an extension of time is allowed.

For instance, when U S WEST created a new optional form of early retirement benefit - a single sum payment - the Pension Death Benefit was made an integral part of the lump sum payment. That option was first extended to thousands of managers during the 5+5 early retirement offering made in December 1989 through February 1990. Then, the option was made permanent. From 1997 through 2003, the U S WEST/Qwest Pension Plan stated:

> *"If a Participant . . . elects a lump sum (or a partial lump sum) benefit at retirement, then the lump sum paid to the Participant shall be increased by the DLS Equivalent of the Death Benefit described in Section 7.3(a). For this purpose, only, the DLS Equivalent shall include an assumption that the Participant will be survived by a Beneficiary. . . If such an increase is paid, no other Death Benefit shall be payable pursuant to this Article VII at any time, including the Participant's death.. ."*

With respect to the Lucent retirees, they were never given the option of electing a lump sum early retirement distribution. Lucent retirees receive their pension benefit paid only in the form of a monthly annuity. Therefore, we strenuously argue in our *Kerber* case that, since the formula devised by U S WEST for calculating the optional form of benefit required the added dollar value of the Pension Death Benefit, U S WEST considered the Pension Death Benefit to be a protected benefit.

Furthermore, the Pension Death Benefit, upon becoming a necessary component of the optional early retirement benefit, became protected by operation of both IRS Section 411(d)(6) and ERISA Section 204(g). During a 7-year span (1997-2003), the optional lump sum early retirement benefit which included the present dollar value of the Pension Death Benefit was provided to well over 15,000 pension plan participants.

Nevertheless, Judge Boland did not accept our arguments. Therefore, on appeal, we will be submitting our arguments which are novel, making the *Kerber* case one of first impression. In short, we contend we can meet the necessary standard of showing by a preponderance of evidence that plan sponsor U S WEST had intended the Pension Death Benefit to have vested — despite not being obliged to do so by ERISA.

(..continued on next page...)

(...Death Benefit...continued from page 2…)

It is fundamentally unfair that Qwest, after both it and U S WEST gave the monetary value of the Pension Death Benefit to over 15,000 persons immediately upon termination of employment, could be allowed to deny it to all others, especially those persons who had the option of taking the benefit early but chose to defer payment.

On October 15, 2008 we started the appeals process with the filing of our "Notice of Appeal."

Our opening brief will be due on December 8, 2008, unless an extension of time is allowed. We will be asking for an oral argument hearing before a three judge panel. It is likely that the full appeals process will take up most of next year.

At this time, there is no good reason for Qwest to end the practice of paying the Pension Death Benefits. But, we cannot predict what decisions will be made by Qwest leadership. Should the company stop paying out the Pension Death Benefit, and we win the *Kerber* case on appeal, we will ask that all payments be restored with interest

Curtis L Kennedy

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U S WEST (Qwest) Retirees on the Internet

To keep informed and review all the legal papers in the Pension Death Benefit case and other legal filings, please go to our retiree website:

1) Judge Boland's September 19, 2008 ruling granting Qwest Summary Judgment: **http://www.uswestretiree.org/Docket155-OrderGrantingDefendantsSummaryJudgment.pdf**

2) For a summary of AUSWR arguments to the court in the Pension Death Benefit case: **http://www.uswestretiree.org/DOD2FC~1.PDF**

3) AUSWR appeals process filing: **http://www.uswestretiree.org/Docket159-Notice%20of%20Appeal.pdf**

4) Other legal papers for your review are at: **http://www.uswestretiree.org/legal2.htm#death**

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Qwest Pension Plan and the Pension Benefit Guaranty Corporation

Report by Curtis L. Kennedy, AUSWR Litigation Attorney

During recent AUSWR group meetings, several retirees asked me to explain what the maximum amount of his or her monthly pension benefit from the Qwest Pension Plan is protected or guaranteed by the Pension Benefit Guaranty Corporation.

When ERISA was signed into federal law in 1974, Congress created the Pension Benefit Guaranty Corporation (PBGC), an insurer akin to the Federal Deposit Insurance Corporation, to provide some protection for defined benefit pension plans against employer insolvency. The PBGC, an agency (or federal corporation) run by a board that includes the U.S. secretaries of Labor, Treasury and Commerce, receives no funds from general tax revenues.

Presently, the PBGC insures the pensions of about 44 million workers. The PBGC currently pays monthly benefits to abut 630,000 persons. And, presently, the PBGC's obligations for future benefits is about $66 billion. You can obtain the PBGC's recent annual report at: http://www.pbgc.gov/docs/2007_annual_report.pdf.

The PBGC finances its operations from mandatory insurance premiums paid by companies, like Qwest, that sponsor defined pension benefit plans. For instance, this year Qwest paid to the PBGC $3,183,840 as an insurance premium at the rate of $33 per plan participant. As of October 13, 2008, the date Qwest made the premium payment, there were 96,480 plan participants in the Qwest Pension Plan, including all categories of retirees and active employees.

The PBGC also receives investment income and recoveries, if any, from employers whose underfunded plans have terminated. When employers who pay insurance premiums to the PBGC can no longer support their defined benefit pension plans, the agency takes over the assets and liabilities and pays certain minimum pension benefits to the pension plan participants and beneficiaries.

The maximum pension benefit guaranteed by PBGC is set by law and adjusted yearly.

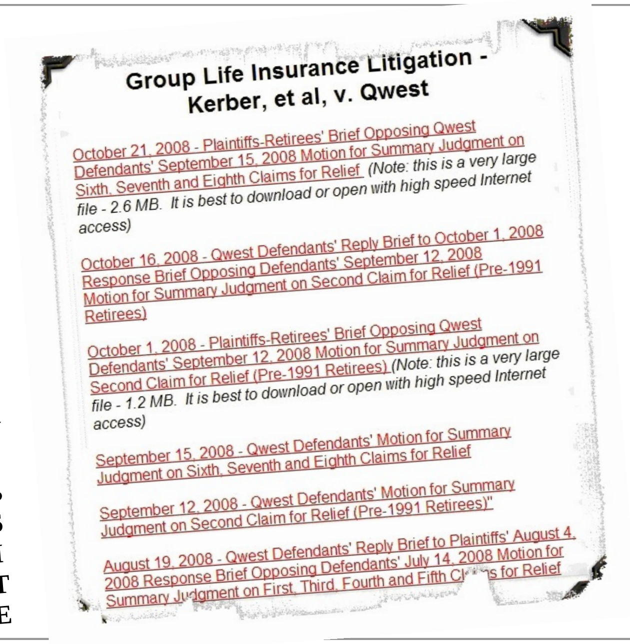
The Pension Protection Act of 2006 provides that the maximum benefit payable by the PBGC is to be determined by the legal limits in force on the date of the plan sponsor's bankruptcy and not on the date of plan termination.

On November 3, 2008, the PBGC announced that the maximum annual benefit for plans taken over in 2009 will be $54,000 for retirees who are at least age 65 years when the pension plan is taken over by the PBGC. Thus, a retiree who is at least age 65, should his or her pension plan be taken over next year, is guaranteed a top payment of $4,500.00 monthly. Persons who are younger than age 65 years when a pension plan is taken over are guaranteed smaller benefits.

Each year, the PBGC posts a chart showing the amounts guaranteed as a monthly annuity payment for persons at age 65 years, down to age 45 years. See: http://www.pbgc.gov/media/news-archive/news-releases/2008/pr09-03.html

Group Life Insurance Case Continues

A U S W R L E G A L W E B S I T E



Group Life Insurance Litigation - Kerber, et al, v. Qwest

October 21, 2008 - Plaintiffs-Retirees' Brief Opposing Qwest Defendants' September 15, 2008 Motion for Summary Judgment on Sixth, Seventh and Eighth Claims for Relief *(Note: this is a very large file - 2.6 MB. It is best to download or open with high speed Internet access)*

October 16, 2008 - Qwest Defendants' Reply Brief to October 1, 2008 Response Brief Opposing Defendants' September 12, 2008 Motion for Summary Judgment on Second Claim for Relief (Pre-1991 Retirees)

October 1, 2008 - Plaintiffs-Retirees' Brief Opposing Qwest Defendants' September 12, 2008 Motion for Summary Judgment on Second Claim for Relief (Pre-1991 Retirees) *(Note: this is a very large file - 1.2 MB. It is best to download or open with high speed Internet access)*

September 15, 2008 - Qwest Defendants' Motion for Summary Judgment on Sixth, Seventh and Eighth Claims for Relief

September 12, 2008 - Qwest Defendants' Motion for Summary Judgment on Second Claim for Relief (Pre-1991 Retirees)"

August 19, 2008 - Qwest Defendants' Reply Brief to Plaintiffs' August 4, 2008 Response Brief Opposing Defendants' July 14, 2008 Motion for Summary Judgment on First, Third, Fourth and Fifth Claims for Relief

Many of you have asked what is happening in the Group Life Insurance case. Keep in mind that cases such as ours take time –sometimes years. Curtis will report his progress to us in future editions of this newsletter and in our face-to-face meetings that he attends.

The best way for you to keep current on the activities for our life insurance case –and all of our legal actions is to check our website: **http://www.uswestretiree.org/legal2.htm**

For those of you who do not Internet access, please contact Kitty Kennedy (page 14) if you would like a copy of a filing. See sample below.

Group Life Insurance Litigation—Kerber, et al, v. Qwest October 21, 2008, page 5…

"… Qwest is Not Entitled to Summary Judgment on the Sixth Claim for Relief. Defendants have mischaracterized and oversimplified Plaintiffs' Sixth Claim for Relief.

Plaintiff Strizich asks this Court to declare his rights to Plan benefits pursuant to ERISA Section 502(a)(1)(B), 29 U.S.C. § 1132(a)(1)(B), and to enter an order declaring any purported Plan amendment after being adopted that was retroactively applied to be in violation of the Plan's Prior Loss Proviso and, therefore, null and void. Mr. Strizich seeks an order requiring Plan administrators to make corrected benefit payments. Mr. Strizich contends more favorable terms of the Plan, including more favorable terms of the Group Contract which was never properly amended in writing, continue to govern the rights of beneficiaries of deceased Eligible Retirees. Mr. Strizich, like Plaintiffs Kerber and Phelps, is a Pre-1991 Retiree who took retirement under the "5+5" early retirement offering made by U S WEST during December 1989 through March 1990. He is one of those persons the U S WEST EBC declared to be "entitled" to the Plan benefits. (Exhibit 3, Shea Aff. at ¶¶ 10-11). These facts and claims are more thoroughly discussed in Plaintiffs' brief opposing Defendants' motion for summary judgment on the Second Claim for Relief. (See DN 113). **1** In addition, Mr. Strizich, as beneficiary of deceased Plan participant Sharon Strizich who also retired under the 5+5 early retirement program, seeks a declaration of his rights as a Plan beneficiary. He seeks a determination that his benefit payment should have been based upon more favorable Plan terms existing in March 2007…"

1 The use of the word "entitled" in the official notice sent out on March 26, 1990 was deliberative. This letter was prepared with the approval of in-house legal counsel and Senior Executive Officers including members of the EBC. The intent of the notice was to impress upon the recipient that the promised life insurance benefits had become vested. (Ex. 3, Shea Aff. At ¶11).

CWA Membership Approves Qwest 4-Year Contract

Communications Workers of America (CWA) members voted to approve a revised four-year contract offer from Qwest Communications after the completion of the union vote was initially postponed for about a week. Vote counting completed November 6, 2008, resulted in about 77 percent of the 20,000 CWA members affected ultimately approving the new contract, which Qwest and the union revised after union membership voted down an early proposal in September.

Results of the second vote were delayed because some union members had not received their voting materials early enough.

As a result of the new deal, CWA members working at Qwest will receive a 12 percent pay hike over four years, but with increases in worker health plan contributions as well. Workers agreed to a health plan that would increase family package premiums from $33 a month to $75, with additional increases in the second and third years of the contract.

Retiree Health Care – The retiree health care caps were increased for the non-Medicare participants. Qwest no longer will reimburse Post-1990 Medicare retirees for a portion of their Medicare Part B premium. The standard premium in 2008 was $96.40 a month for individuals with annual incomes under $82,000.

Post-1990 retirees also will face premiums, ranging from $75 a month for individual non-Medicare coverage to as much as $408 a month for family coverage.

Pre-1991 and ERO retirees are protected from increased health care costs by a legal agreement [Phelps case filed by the Association of U S WEST Retiree] fashioned more than a decade ago.

"It's not as devastating as it might have been, but if you're on a fixed income it's worrisome," said Mimi Hull, AUSWR president.

The CWA-Qwest settlement also provides a 3 percent increase in pension bands for those who retired starting at the end of the contract period. No pension increases were given to those already retired.

The newly approved contract also has provisions for improvements in work conditions, such as a "resolution of problems caused by work quotas for technicians."

"We didn't get everything we wanted," said CWA District 7 Vice President Louise Caddell, "but we achieved the best settlement possible in light of Qwest's struggle to regain its financial health.

"This is a settlement that protects careers and living standards for our members and allows us to move forward with the company in building Qwest's success for the future," Caddell said.

Details of the contract are updated as available at the CWA website: **http://www.7906.org/online%20content/Q-208a.doc**

NRLN Leads Congress On Pension Protection

In a letter dated November 12, 2008, The American Benefits Council (ABC) which represents more than 300 of the nation's major corporations including Qwest Communications, petitioned Congress to make "technical corrections" to the Pension Protection Act of 2006 asking for relief to halt or delay funding pension plans in favor of using the monies for their immediate cash problems.

The National Retiree Legislative Network which represents the retiree interests of many of the 300 ABC corporations, quickly responded with a position on the request.

Below is the message from Bill Kadereit, NRLN President, that tells what his lobbying organization is doing to fight for pension protection against the proposals to reduce pension funding.

Given the recent request by companies to gain short term relief during these critical times of cash shortages, we are going to again make our case for **pension asset protection** (a top NRLN priority for 2009).

Bill Kadereit, President NRLN

Our NRLN perspective is that as long as a blackout period is short term and none of the liability is forgiven, that this may be an opportunity for us to set up a win / win offer:

We would agree to support this window as a way of making sure companies are around to pay into plans later, providing Congress and the companies agree to our request for the three part protection plan we are seeking.

The end game is that if companies can't pay and do not get the relief, another option to them is to terminate plans that are underfunded. We don't want that!

The NRLN began its approach to Congress in October to make members aware of the coming pension losses and the need for pension protection.

Following is my letter to the House Education and Labor Committee about pension protection.

October 28, 2008

The Honorable George Miller
Chairman, House Education & Labor Committee
United States House of Representatives
2205 Rayburn House Office Building
Washington, DC 20515-0507

Dear Representative Miller:

Thousands of National Retiree Legislative Network members have been reading news reports posted on the NRLN website about the hearings the House Education and Labor Committee held last week concerning the impact the depressed stock market is having on the under-funding of pension plans and the losses suffered by the PBGC. On behalf of our members, I want to commend you for your Committee's efforts to "gather all the information we need in order to rescue the economy and help workers and retirees," as you were quoted in one news report.

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(...NRLN...continued from page 7…)

The 44 million Americans who still have pension benefits are troubled by the news reports that pension plans could be facing the largest under-funding ever due to recent steep market declines. As you may be aware, an analyst's report issued last week by Standard & Poor's stated pension plans are on their way to suffering an under-funding greater than the $219 billion seen in 2002. Further, it is unsettling that the PBGC Director Charles Millard testified to your committee that it has lost $4.79 billion in stock investments in fiscal year 2008.

We have the "perfect storm" brewing when you combine pension plan under-funding and PBGC losses with the risks created by the removal of assets from pension plans to pay for corporate restructuring, plus the threat of financial firms purchasing pension, and funds being used for extra benefits for executives. Many pension plans are headed for disaster unless Congress acts to stop the reversions of pension plan assets to corporations.

The NRLN would like to see your Committee bring forth a bill that would further secure pension plans beyond the strengthening provided through the Pension Protection Act of 2006. Among the security provisions, the NRLN proposes that ERISA be amended to narrow the definition allowing pension assets to be used for "ancillary" benefits. Legislation should preclude companies from using pension assets to pay for company restructuring expenses, such as layoff allowances. The NRLN believes pension plan assets should remain in pension trusts to ensure the continuation of monthly pension payments, fund Cost of Living Allowances (COLA), and for transfers of surplus in excess of 120% of plan assets to pay for retirement health care, in accordance with Section 420 of the IRS Code.

As you know, lobbyists for financial firms—including some who have engaged in sub-prime mortgage loans—have been seeking regulatory relief in order to purchase pension plans. The NRLN fervently believes that allowing financial firms to buy out pension plans is a dangerous idea that would lead to diminished pension benefits. Therefore, any pension security legislation from your Committee should prohibit the purchase of pension plans by third parties.

Recently, *The Wall Street Journal* exposed a number of companies that are paying executive non-qualified pensions and deferred compensation with defined pension plan assets. Congress should act to preserve pension trust fund assets for the workers and retirees for whom the pension plan was originally created.

The more than 2 million NRLN members from all 50 states are depending on their elected representatives in Washington to take action to safeguard their pension plans to the greatest extent possible during this period of financial crisis. The NRLN's Washington team would welcome the opportunity to work with your Committee's staff members to protect the interests of workers and retirees. Marta Bascom, NRLN Executive Director, can be reached on 703-863-9611. Michael Calabrese, NRLN Legal Counsel, can be reached on 301-653-7730.

In closing, I want to once again express my appreciation for being provided the opportunity to testify before your Committee on September 25th during the hearing on *Safeguarding Retiree Health Benefits.* I hope the NRLN will also be permitted to be of assistance in providing input for the protection of pension plan assets.

Sincerely,

Bill Kadereit

President, National Retiree Legislative Network

NRLN National Retiree Legislative Network

The National Retiree Organization (NRLN) is a non-partisan, grassroots coalition of retiree associations, individual retirees and pre-retirees devoted to enacting federal legislation to protect pension plans and retirement healthcare benefits. With support from its more than 2 million members and Washington, DC-based staff, the NRLN identifies and rallies support for Federal legislation will guarantee fair and equitable treatment of retirees from the private and public sectors.

Now Wall Street Wants Your Pension, Too

JPMorganChase, Citi, Cerberus, and Morgan Stanley are among the firms lobbying Washington to let them take over and run corporate pension funds

Excerpts from Business Week
by Matthew Goldstein, Senior Writer

Some of the folks that brought us the subprime meltdown and the global credit crisis have a bold new idea that could solve a slew of problems for U.S. companies, but also might cause a whole set of troubles for employees and retirees.

A broad coalition of Wall Street firms, from banks and insurers to hedge funds and private equity firms, are pushing lawmakers to let them buy and manage so-called frozen corporate pension plans, which no longer accept new members but must continue to cover current ones. Of the $2.3 trillion in U.S. corporate pension fund assets, some $500 billion sits in frozen plans, including those of big companies such as IBM, Hewlett-Packard, Verizon, and Alcoa.

At first blush the idea would seem to be a tough sell in Washington. Not only are Wall Street firms scrambling to boost profits and raise capital to stay afloat they're also fighting allegations that they knowingly dumped toxic securities on unwitting investors during and after the mortgage boom.

Yet firms are getting a receptive ear from the Treasury Dept. After the IRS ruled that the concept needed legislative approval, Treasury on Aug. 6 offered a blueprint for lawmakers to allow "financially strong entities in well-regulated sectors" to acquire pension plans. Now the debate moves to Congress, which would have to change existing law.

For companies, offloading pension plans could be a boon. Many have struggled in recent years to make good on their generous pension promises, swinging from surpluses to deficits depending on the whims of the stock market.

For example, Ford Motor, which reported an $8.7 billion loss in the latest quarter, has a pension plan that's underfunded by $9 billion, according to Credit Suisse analyst David Zion. Problems like these are a big reason why Charles Millard, director of the Pension Benefit Guaranty Corp., the federal insurer of last resort of corporate pension plans, is behind the Wall Street plan. He says it would "create greater security for retirees and the pension system," though he warns that "these deals should only

(...continued on the next page…)

(...Wall Street...continued from page 9..)

be permitted when the acquiring entity has a higher credit-rating than the seller."

Since 2007, companies have been required to list pension-fund figures on their balance sheets, but that doesn't affect earnings. But new accounting standards that are supposed to take effect over the next two years will require them for the first time to include fluctuations in the value of pension assets or liabilities as part of their quarterly earnings totals, a change that could devastate profit results for some. "We have identified several clients who would be willing to be first to sell a plan," says Scott Macey, a senior vice-president with Aon Consulting, one of the firms lobbying hard for the new rules.

Wall Street, of course, has a different motivation. As companies increasingly decide they can no longer offer the lavish benefits they once did and stop using pension plans as a recruiting tool, consulting firm McKinsey & Co. predicts that the assets in frozen plans will more than triple, to $1.7 trillion, by 2012. By taking over frozen plans, Wall Street firms could charge fees based on the total assets, perhaps in line with the standard 1% to 2% levied by many money managers.

"A TERRIBLE IDEA"

But the gambit to turn pensions into money-makers raises plenty of questions. Critics, including some on Capitol Hill, worry that financial firms won't always have workers' best interests at heart, putting some 44 million current and future retirees at risk. "We think this is just a terrible idea," says Karen Friedman, policy director for the advocacy group Pension Rights Center. "In the wake of the subprime crisis, it would be crazy to allow financial institutions to manage these plans."

Critics, including some on Capitol Hill, worry that financial firms won't always have workers' best interests at heart, putting some 44 million current and future retirees at risk...

Historically, pension portfolios have been managed in a conservative fashion, investing mainly in stocks and bonds.

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Steps-down over misconduct charges

Nacchio Judge Resigns

As you know, Judge Edward Nottingham handled the criminal trial case against former Qwest CEO Joe Nacchio.

The matter is pending before the *en banc* Tenth Circuit Court of Appeals - meaning the entire bench less three judges who recused themselves due to a conflict of interest. We are awaiting a decision, and I predict we will get a decision before February, and it will not go well for Mr. Nacchio.

Meanwhile, many of you, especially those in the Denver area, have heard on TV news and read in the local newspapers numerous reports about Judge Nottingham's *most troubling* and bizarre personal conduct. If not, you can go to either *The Denver Post* or *Rocky Mountain News* Internet websites.

This will have absolutely no bearing on the outcome of Mr. Nacchio's appeal… I predict we will get a decision before February, and it will not go well for Mr. Nacchio…

____Curtis L. Kennedy,

AUSWR Litigation Attorney

The following is an official announcement released by the Tenth Circuit Court of Appeals, as it concerns Judge Nottingham.

Many have asked me what does this mean for Joe Nacchio's appeal?

<u>**Please note**</u>: ***This will have absolutely no bearing on the outcome of Mr. Nacchio's appeal.***

Chief Tenth Circuit Judge Robert H. Henry has issued the following announcement:

"In response to complaints of judicial misconduct lodged in August 2007, the Tenth Circuit Judicial Council initiated misconduct proceedings against Judge Edward Nottingham. As additional allegations developed and subsequent misconduct complaints were filed, the Judicial Council expanded the initial misconduct proceedings.

The Judicial Council, through its appointed Special Committees, conducted a thorough and extensive investigation, interviewed many witnesses, considered voluminous documentation, and conducted two hearings.

At this critical time in the investigation of these multiple complaints of misconduct, Judge Nottingham has stepped down, effective immediately, as Chief Judge of the District of Colorado, has ceased judicial duties, and has resigned his commission as a United States District Judge effective Wednesday October 29, 2008.

The Council will have no further statement until Judge Nottingham's resignation is effective."

NRLN Sends Letter To Treasury for IRA Withdrawal Relief

Below is the text of a letter that NRLN President Bill Kadereit has written to Treasury Secretary Paulson asking for relief on required IRA and 401-(k) withdrawals for those 70-1/2 years and older.

What is a Required Minimum Distribution from my IRA or 401-(k) Plan?

• Age 70 ½ is an important age for people who have saved for their retirement by investing in Individual Retirement Annuities (IRAs) and tax deferred qualified retirement plans, because the Internal Revenue Service requires that distributions from these plans commence generally at age 70 ½. (Consult your tax planner or financial advisor if you believe your are affected).

November 18, 2008
The Honorable Henry M. Paulson, Jr.
Secretary of the Treasury
Main Treasury Building, Room 3330
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Paulson:

On behalf of the more than 2 million members of the National Retiree Legislative Network (NRLN), I am writing to ask that the Treasury Department change, or at least institute a hiatus, on the "Required Minimum Distribution" (RMD) rules regarding Individual Retirement Accounts (IRAs), 401(k)s and related savings vehicles.

Given the fact that value of such accounts have fallen dramatically with stocks down more than a third this year, millions of Americans age 70½ and older will suffer a financial catastrophe if they are forced to make withdrawals by December 31st.

The Administration and Congress have approved $700 billion to bailout America's financial industry. Men and women who have saved for their retirement years should be given a break—be it temporary—to get them through this period of financial turmoil and allow the value of their accounts to rebuild when our economy turns around.

The NRLN recognizes that RMD amounts are based on account values from Dec. 31st of the previous calendar year and some older Americans have already taken their distributions through installment plans. The Treasury Department should see to it that these individuals are treated equitably on their RMDs should a reprieve be granted for 2008.

Allowing millions of people to skip an RMD in 2008 and possibly a few years into the future would mean the federal government would forego for a few years the tax dollars associated with those withdrawals.

However, given the federal government's generosity to Wall Street, it would only be appropriate for the Treasury Department to demonstrate a degree of fairness toward retired Americans.

If a member of your staff would be interested in discussing this issue with the NRLN, please contact Marta Bascom, our Executive Director in Washington, DC at 703-863-9611.

Sincerely,

Bill Kadereit

President, National Retiree Legislative Network