



2009 Issue

THE RETIREE GUARDIAN

“the voice of 40,000 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

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Favorable Rulings Denied AUSWR Retirees’ in Two Cases Against Qwest

During July and August Federal courts delivered rulings in both AUSWR legal cases against Qwest Communications.

First, the appeal to the Tenth Circuit Court in the Pensioner Death Benefit Case received the ruling in July that upholds Qwest’s right to end the benefit for those who retired starting in 2004. The Pensioner Death Benefit remains intact for all who retired before 2004. See story below.

Then, in August, the Group Life Insurance case was dismissed by Denver Federal Court Judge Walker Miller. The AUSWR is appealing this decision of the Group Life Insurance Case. See story on page 4.

The following are reports by Curtis L. Kennedy, AUSWR Litigation Attorney, giving you the details of both legal cases.

Qwest’s Right to End Pensioner Death Benefits Confirmed – For Those Not Retired

*by Curtis L. Kennedy,
AUSWR Litigation Attorney*

On July 17, 2009, the Tenth Circuit Court of Appeals issued its ruling in the long contested *Kerber v. Qwest Pension Plan* case. In short, the panel of three judges ruled that federal law - ERISA - did not prohibit Qwest from

eliminating the Pensioner Death Benefit for active employees –persons not already retired.

Pensioner Death Benefit continues as a viable benefit for surviving spouses of persons who retired before January 1, 2004. Almost six years ago, Qwest

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“To preserve and protect the pension and benefits that we earned.”

— AUSWR Mission

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leadership, reeling from all of the company financial damage caused by the Joe Nacchio regime, announced immediate plans to eliminate the Pensioner Death Benefit for all persons, both active employees and those long retired.

However, your retiree organization stepped into the foray and, with the support of thousands of members who wrote passionate letters and emails protesting to Qwest leadership, succeeded in getting that decision partially suspended.

Instead of eliminating the Pensioner Death Benefit all together, Qwest leadership decided to eliminate the benefit for persons who retire after January 1, 2004.

Nevertheless, the inequities of the situation justified litigation, especially on behalf of persons who were service pension eligible but not yet retired. During the course of the hard fought federal court case, hundreds, perhaps a thousand widows and widowers benefited by the continued payment of the Pensioner Death Benefit for persons retired before January 1, 2004.

A proverbial hodge-podge of legal arguments were made by five Plaintiffs who sought to protect and represent the best interests of all retirees, both management and non-management.

Among the many contentions asserted was that since U S WEST made the Pensioner Death Benefit an integral part of the lump sum payment option, a choice elected by more than 10,000 workers in 1990 ("5+5") and during 1997 through 2003, the benefit should be deemed protected under ERISA. However, in an appellate decision of first impression, the Tenth Circuit ruled that the Pensioner Death Benefit was not a protected "retirement-type subsidy." The judges reasoned that since the Pensioner Death Benefit was a single event payment, not recurring income, it did not receive protected status as allowed for retirement type subsidies.

The appellate court decision ends the dispute insofar as contesting Qwest's right to eliminate the Pensioner Death Benefit for persons who had not retired as of January 1, 2004. There are no viable grounds to continue that disputed case any further. The decision is posted at the AUSWR website: www.uswestretiree.org/Tenth%20Circuit%20Ruling%20071709.pdf

While no one can accurately predict what Qwest leadership may choose to do in the future, your retiree organization is dedicated to continuing the fight to preserve the Pensioner Death Benefit for all persons who retired *before* January 2004. It should be noted that during the litigation now ended at least \$30 million in promised Pensioner Death Benefits were paid to deserving and needing widows and widowers.

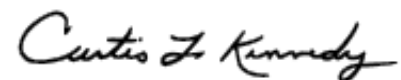
None of that would have happened, but for your retiree organization's efforts to preserve the benefit.

See the formal announcement that Qwest had ready to send out on September 2, 2003: www.uswestretiree.org/September2,2003%20Letters.pdf

The Pensioner Death Benefit should not be confused with the Group Life Insurance benefit reduced by Qwest to \$10,000 which is the subject of another court case, *Kerber v. Qwest Group Life Insurance Plan*.

The Pensioner Death Benefit, a fixed lump sum payment from the pension plan, is administered by Watson Wyatt through the Qwest Service Center. Again, the Pensioner Death Benefit continues as a viable benefit for surviving spouses of persons who retired before January 1, 2004.

A surviving spouse should always ask the Qwest Service Center – 800-729-7526, select option 3, about the right to receive the Pensioner Death Benefit.

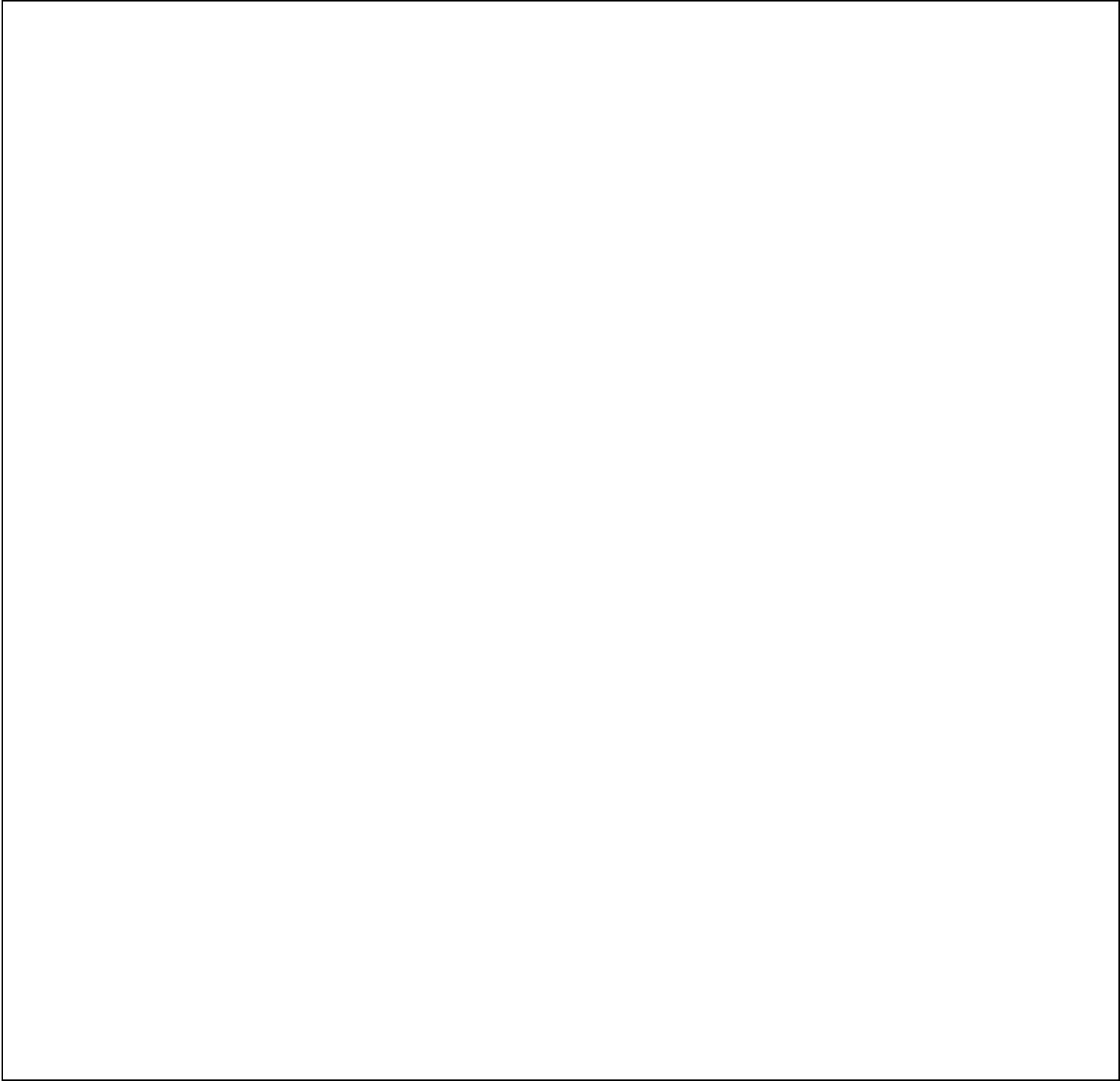


Is it time for you to verify your beneficiary designations with Qwest?

Check with the **Qwest Service Center – Call 800-729-7526** – to make sure your designated beneficiary for either the Pensioner Death Benefit or the Group Life Insurance plan is properly documented and updated. Many retirees report that they call and learn that there is no record of their beneficiary designation.

You must have your Social Security number, your date of birth, and your retirement date to make this request. If necessary, ask to have a current Beneficiary Confirmation form mailed to you. Or if the Qwest beneficiary records do not agree with your wishes, ask to have a Beneficiary Designation form mailed to you, complete it, make a copy, and mail the original back to Qwest.

(State) President's Message



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President	Mimi Hull
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Litigation Attorney	Curtis L Kennedy

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Group Life Insurance Plan

By Curtis L Kennedy, Litigation Attorney

The *Kerber v. Qwest Group Life Insurance Plan* case has seven Plaintiffs who are retirees or beneficiaries who have been fighting for the rights of all retirees, both management and non-management, and their designated beneficiaries against Qwest's reduction of basic group life insurance benefits to a flat \$10,000.

On February 27, 2008, Denver Federal Judge Walker Miller dismissed Plaintiffs' original claims that the language in an Appendix to the June 1998 Master Plan Document which set forth minimum benefits promises contractually barred and equitably estopped Qwest Defendants from reducing the minimum life insurance benefit. Judge Miller concluded that the June 1998 version of the Plan "unambiguously reserves Qwest's right to amend the Plan" and that the minimum benefits promises did not tie the company's hands. Therefore, on April 3, 2008, Plaintiffs filed a Second Amended Complaint asserting 8 different claims for relief.

Almost a year later, by Order dated March 25, 2009, Judge Miller dismissed Claims 1 and 7 which asserted claims of breach of ERISA fiduciary duty and sought removal of certain members of the Qwest Employee Benefits Committee.

Then, by Order dated March 31, 2009, Judge Miller dismissed Claims 3, 4 and 5 which contended that Qwest's October 14, 2005 Resolutions to make a change to the group life insurance plan were ineffective as an amendment because the section regarding the reduced benefit is merely a "recommendation" and was not carried out until fourteen months later in a formal Amendment 2006-1 adopted on December 16, 2006. Plaintiffs contended that the change could not be made retroactive so as to affect beneficiaries of non-management retirees who died during year 2005. In addition, Plaintiffs contended that Qwest left in the governing plan document language which directly contracted the adopted amendment reducing non-management retirees' basic benefit to only \$10,000. But, Judge Miller opines otherwise. He said, "I decline to conclude that leaving the previous language in place creates an ambiguity when, as here, the amendment unambiguously supplants the previous language."

More recently, by Order dated August 25, 2009, Judge Miller decided to dismiss Claims 2, 6 and 8, thus ending the case and canceling the November 2, 2009 scheduled trial date.

For Claim 2, we argued that Plan fiduciaries and administrators made representations about the Plan's

terms to Pre-1991 Retirees which included a deliberative explanation to lead persons to believe that the Company could only make changes that made the Plan more meaningful and affordable for both the plan participants and the Company, not changes detrimental to the interests of retired persons.

In 1990, in the midst of U S WEST's efforts to reduce the management workforce with the "5+5" early retirement offering, the Company chose specifically to tell everyone the Company's viewpoint with respect to the Plan's "reservation of rights" clause. At that time, the reservation of rights clause was tucked into a paragraph of a 1987 dated summary plan description which paragraph was entitled "Plan Continuance" and it stated: "The Company intends to continue the Group Life Insurance Benefit Program but reserves the right to terminate or amend it at any time, subject to applicable limitations in the law or any applicable collective bargaining agreements"

We argued that reservation of rights statement was ambiguous and that it did not clearly state that the Company had retained the right to reduce benefits. More precisely, we argued any reasonable person, not having either a law degree or schooled in ERISA would not understand that statement to mean the Company had the right to reduce benefits to the detriment of retired persons.

And, U S WEST deliberately spoke about that reservation of rights clause and gave an interpretation and explanation so as to disarm any person contemplating retirement, whom may have been worried about that statement. U S WEST put together a video broadcast played repeatedly in every working office. The following is an excerpt of the video showing how U S WEST explained the reservation of rights clause:

Excerpt from the January 1990 video:

Moderator Don Johnson: "Charlie, there is a statement in some of the paperwork that people received in their packets that's raised some questions, and that is the statement that says the company reserves the right to change benefits. There are some people worried about that. Can you speak to that statement?"

H. R. Executive Director Charlie Kamen: "Sure. That's typical reservation of rights statement that appears in virtually every employee benefit plan, not just U S WEST benefit plans, but all companies' benefit plans. It is not intended to be divisive, it is not intended to be a below the board type of thing. What it is intended to do though, is it's intended to give the company the ability
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to modify the plans as circumstances and conditions change in the future. **It's really intended to make the plans more meaningful and more affordable not only for the employee but for the company."**

You can see the video and download it from the AUSWR website at the bottom of the section concerning the Group Life Insurance Plan litigation. See:

<http://www.uswestretiree.org/ROR%20Excerpt%20From%20Video.mpg>

It is Plaintiffs' contention that any reasonable person having been told the above statement was U S WEST's position about the "reservation of rights" clause would believe he or she had nothing to worry about. We argued that since the reservation of rights statement was ambiguous, the law required Judge Miller view U S WEST's interpretation and explanation about the reservation of rights clause from the standpoint of a reasonable retiree plan participant.

Obviously, reducing the promised life insurance benefit down to a mere \$10,000 is contrary to what everyone heard during 1990. The reduction of free basic life insurance benefits to only \$10,000 is neither "meaningful" nor "affordable" for any retiree. We requested that Judge Miller grant equitable relief declaring that Qwest must be held accountable to U S WEST's interpretation and explanation. We argued Qwest should be required to restore the basic life insurance benefit to its original pre-reduction dollar amount and make adjusted payments to all beneficiaries who, thus far, have received only the flat \$10,000 payment.

But, Judge Miller ruled the reservation of rights clause was not ambiguous. He went so far as to say in his dismissal order "I find that the 1987 SPD *clearly stated* that Qwest maintained *the right to reduce or amend* the benefits under the Plan, with the limitation that it could only do so if the amendment or termination complied with applicable law and collective bargaining agreements." Furthermore, with respect to the January 1990 video explanation, Judge Miller said in his dismissal order, "Finally, the Video Conference also clearly indicated that Qwest maintained the right to alter or terminate the Life Benefit. Even if the Video Conference can be considered to have 'downplayed' the importance of the reservation of rights clause, it clearly and unequivocally stated that Qwest retained the right to alter or terminate the Life Benefit."

For Claim 6, we argued that the reduction of all Pre-1991 Retirees' and all other Management Retirees' benefits was done in violation of the more recent Plan documents rules forbidding reduction of benefits before an adopted plan amendment and an amendment to the Group Contract signed by both Qwest and Prudential. We cited a Supreme Court case ruling that there must be strict compliance with plan document rules and that did not happen when Qwest reduced the benefits. We argued that Qwest started reduced benefits starting in January 2006 more than 15 months before the plan amendment

was adopted and that there never was an amendment to the Group Contract signed by both Qwest and Prudential until several years later. Thus, we argued that Qwest and Plan administrators violated the duty to act in accordance with the exiting rules of the Plan.

But, Judge Miller, instead of strictly holding Qwest accountable for not complying with the Plan rules, held that the Company should be let off the hook because the Company *substantially complied* with the rules and "manifested its intent to amend the Plan" and that Qwest's actions (i.e., notifying Prudential and notifying affected retirees) "sufficiently indicate the intent to amend" the Plan. Even though the Plan expressly adopts the terms and rules of the Group Contract which requires that before benefits can be reduced there must be an amendment signed by both Qwest and Prudential, Judge Miller ruled the exact opposite saying: "The amendment procedure for the Plan does not require execution of a valid amendment of the insurance contract." He concluded by saying "given these rulings, Claim 6 is without any basis and must be dismissed."

For Claim 8, we argued and proved that Qwest failed to comply with ERISA's requirement to produce to requesting claimants, within 30 days after receiving a written request, all documents and "other instruments under which the plan is established or maintained." The initial request for all such documents was made to Qwest by letter sent on November 16, 2006. On December 13, 2006, Qwest responded and sent requested paperwork. But, Qwest did not get around to producing all of the documents or other instruments until May 29, 2008. ERISA and accompanying regulations state that when requested documents are delivered past the 30 day deadline the trial court may impose a penalty of up to \$110 per day. But Judge Miller dismissed this last claim stating, "in my discretion, no penalties are warranted for Defendants' failures" to timely produce the requested documents and instruments.

If you wish to have a better understanding about all the claims and defenses made in the case, you should go to the AUSWR website and read the "Final Pretrial Order" at <http://www.uswestretiree.org/FinalPretrialOrderWithAttachments1&2.pdf>

In short, in every respect Judge Miller conservatively and strictly applied the Plan's terms and rules so as to uphold all the harm Qwest did to all retirees, and he liberally applied the Plan's terms and rules so as to allow Qwest to avoid any liability under any of the claims. Judge Miller's dismissal orders will be posted at the AUSWR website.

The prolonged appeals process will be commenced around mid-September 2009. AUSWR will update you as the *Kerber II* case progresses through the Tenth Circuit Court of Appeals, hopefully before a more favorable panel of three appellate judges.

Curtis F. Kennedy

Qwest Board of Directors: "Unable to Deliver"

by Mary Ann Neuman, Chair NWB AUSWR

Phone: 763-535-3865 / E-mail: maneuman12@msn.com

I think you'll find the *Denver Post* article shown below very interesting. It concerns letters that shareholders wrote to members of Qwest's Board of Directors that were not answered and the persistence of Nelson Phelps, AUSWR Executive Director, to get an answer to the letter he sent. There's much more to the story.

Here's the background

Last February as a result of my "Say on Pay" proxy proposal, Qwest replied in their SEC response (which would appear in the Company's statement that's mailed prior to the shareholders meeting) that such a proposal is not necessary as there already is an effective communication channel for shareholders to communicate their thoughts about executive compensation with officers and directors of Qwest. Qwest's response then provided the address to which letters should be sent. I sent out a *Breaking News Bulletin* asking members of our Association who are Qwest shareholders and who would be willing to send a letter to Qwest to contact me. The response was extraordinary.

In April, after Qwest sent the Annual Meeting notice and proxy ballots to all shareholders, 16 members of our NWB Association plus Mimi Hull and Nelson Phelps sent letters - addressed as instructed in Qwest's

statement - to officers and members of the Board of Directors asking questions about Qwest's executive compensation practices and their extraordinary generous perks/benefit decisions.

What happened next you ask?

Mimi Hull got an immediate response to her question directed to CEO Ed Mueller. That's probably because he knows her. As for the 17 remaining letters: 3 were returned to the sender as "Unable to Deliver" - including the letter Nelson Phelps sent. The rest of the letters never, to my knowledge, got a response. Nels only got a reply because he re-sent his letter and a follow up e-mail to Qwest's Vice President and Corporate Secretary Rich Baer. Baer took on the task of looking into the case of the disappearing letters after Nels spoke about this whole fiasco at the Annual Shareholder meeting in May.

The response Nels received, dated July 17, 2009, to his original April letter to Board Member James Unruh, was "signed/initialed" by Qwest's SEC attorney, not Mr. Unruh. That prompts me to further question how truly independent are the Board Members from Qwest management and how well they can perform their corporate governance duties when a letter sent to a board member is "answered" via the Qwest legal department?

If anyone gets a reply from Qwest or perhaps an apology as to why your letter wasn't answered - be sure and let me know.

By Andy Vuong, *The Denver Post*

Tel. 303-954-1209 or avuong@denverpost.com

When Qwest's board of directors successfully beat back a proposal this year to let minority shareholders call special meetings, it contended the company already had "open lines of communications with stockholders."

In its proxy statement, the company also noted how shareholders could correspond with directors at Qwest headquarters in Denver. It even provided the address. So, 18 Qwest retirees did just that. The result: Three letters were returned to the sender and none of the others received a response.

Nelson Phelps, AUSWR Executive Director, whose letter to board member James Unruh was one of the returned items - he raised concerns about perks given to chief executive Ed Mueller - later asked Qwest at its annual meeting in May to address the boomerang letters.

Mueller assured Phelps the issue would be corrected. Naturally, shareholder Phelps did the most obvious next thing: He resent the letter. It bounced again.

Phelps followed up with an e-mail in late May to the company's lawyer, wondering if Qwest took its "open

lines of communications" strategy seriously. After a second e-mail July 15, Phelps got a response from Unruh two days later - three months after his original inquiry.

Qwest blamed the returned letters on "a mix-up in our mailroom," spokesman Nick Sweers said. "We have fixed the problem," Sweers said. "We always welcome shareholders to communicate with our board and will respond when appropriate."

"I got a response because I kept after them...So when Qwest says it takes this very seriously, the proof that they don't take it seriously is in not responding to 18 letters that were sent last April," Phelps said.

The communications issue should draw interest from the Securities and Exchange Commission, Phelps said, especially since the other 17 retirees have yet to hear back.

"The SEC over the past couple of years has tried to be more meaningful in their rulings to try to help shareholders have more of a say in American corporations," Phelps said. "One of the big pushes has been to try to get more interaction between the board of directors and shareowners."

Mimi Answers Retiree Questions

Nacchio Questions:

Q: What's happening with the Nacchio appeal to the Supreme Court?

A: Nacchio is appealing his conviction to the U. S. Supreme Court and they have not said they will take the case yet...that will be determined in the Fall.

Q: When Nacchio left Qwest he had some package to pay for his attorneys' fees. Is Qwest still obligated to pay for his appeals or once he was convicted did Qwest stop paying?

A: If the Supreme Court agrees to hear his case, Qwest will continue to pay. Qwest will not say how much they have paid, but we estimate it at about \$50 million. Plus the SEC case is still pending, and there may be a \$300 million fine once the case is settled.

Pension Plan Financial Status:

Q: What is the status of the Qwest Pension Plan?

A: As of 12-31-2008 the Pension Plan was funded less than 100% for the first time since March 1985 –but that was because of the stock market downturn. Results in the first quarter look better.

Q: What if Qwest goes bankrupt?

A: We are not worried right now because the Pension Plan is funded at a level that appears unlikely that it would be turned over to the PBGC [the government agency that administers bankrupt pension plans]. We continue to monitor what is happening with the Pension Plan.

Qwest Financial Status:

Q: What about Qwest's financial performance?

A: Qwest is losing landlines at the rate of about 10% per year. They do not own a wireless network. We are closely watching any reorganization efforts such as splitting the company and selling off assets.

Q: If Qwest knew it was losing landlines, why did it sell off its cell phone line of business?

A: Qwest stated they were going in a different direction with their plans. Now they are confronted with those business decisions. The recent effort to sell the broadband services did not happen.

AUSWR Future Role:

Q: What do you see as the future for our membership when the law suits are decided?

A: I expect that in 18 to 24 months both of the pending lawsuits [Pensioner Death Benefit, Group Life Insur-



Mimi Hull,
AUSWR President

ance] will be resolved. Our organization will have done everything in the litigation area that we could do. We have fulfilled our mission to preserve and protect the pensions and benefits. AUSWR will have a continued policing, guardian role over Qwest actions. Qwest has about 30,000 current employees and about 49,000 retirees. At divestiture there were over 100,000 employees. The health care bill is about \$1 billion a year. We will keep watch over changes.

The other option to fulfill the AUSWR mission is through legislation. We work with the NRLN. It is essential that those of you who have email take action when you receive alerts from the NRLN. We are competing with highly-paid lobbyists.

United Healthcare Issues:

Q: With so many doctors not taking United Healthcare, costs are getting very expensive. What is being done?

A: First, you need to know exactly when you retired because that determines your coverage. Pre-1991 retirees are covered by the Phelps case. If you have made your appeals and cannot understand the costs, that is an issue for your state Retiree Advocate to help you.

Q: What about my United Healthcare dental benefits?

A: Met Life rather than United Healthcare is the dental insurance. You need to find a dentist who accepts Met Life dental to receive the best benefits. You have no enrollment card for the Met Life dental plan, but all Met Life participating dentists know how to handle the claims for you.

Q: Why should I keep United Healthcare when a lot of retirees are dropping it for the AARP plans instead?

A: Be very careful before you make any changes from your retiree United Healthcare for two reasons:

First, your United Healthcare keeps you from the Medicare Part D prescription drug rules including the donut hole costs, and *Second*, your United Healthcare has catastrophic coverage –a maximum out-of-pocket limit – for extraordinary care. Medicare does not have catastrophic coverage limits for major illnesses.

Q: Isn't the AARP Medicare health plan also United Healthcare?

A: Qwest is a self-insured company and United Healthcare is the administrator of the plan. Qwest sets co-pays and other rules.

Nacchio May Get Shorter Jail Time

The 10th Circuit Court of Appeals in Denver ruled July 31 that former Qwest CEO, Joe Nacchio, "was improperly sentenced after his 2007 conviction for insider trading."

The Federal Court also ruled he "was improperly ordered to forfeit \$52 million," —the proceeds he allegedly earned from his insider-trading stock sales which led to his conviction.

A new sentencing hearing was ordered by the Appeals court for Nacchio. Several legal experts have said his term would likely be shortened and his forfeiture amount reduced. On August 17 the U. S. Justice Department announced that it will not appeal the decision that ordered new sentencing.

"There's no balance or justice there," said Nelson Phelps, AUSWR Executive Director. "In many ways, the Nacchio crime has hurt more average everyday people on fixed income ...than the Madoff case."

Nacchio who was convicted on 19 counts of in-



sider trading faced up to 10 years in prison on each count. He was ordered to serve a 72-month incarceration as calculated by the trial judge. The sentencing was determined by the judge who factored in Nacchio's charitable works and "extraordinary" family responsibilities, and recommendations from the pre-sentencing report.

Nacchio started serving his 6-year sentence at Schuylkill, Pa minimum security

camp.

SEC Civil Case Pending

The Nacchio SEC civil case remains pending.

U S. Supreme Court May Hear Nacchio Appeal

Nacchio also has appealed his criminal conviction to the U.S. Supreme Court. Recently the court sought his entire case file and will likely decide whether to take up his case this fall.

Says he won't leave Denver ...

Qwest CEO Mueller Puts Home On Market

By Andy Vuong, *The Denver Post*
August 19, 2009

Qwest chief executive Ed Mueller has put his 9,200-square-foot Denver mansion near Cherry Creek on the market for \$4.7 million. Mueller, 62, bought the century-old home for \$4.4 million in November 2007, three months after he was hired to succeed former Qwest CEO Dick Notebaert.

Mueller denies plans to leave the Denver area, said Qwest spokeswoman Johnna Hoff.

Mueller moved to Denver from the San Francisco Bay Area. As part of his employment agreement with Qwest, the company purchased Mueller's house in Cali-



fornia for \$8.9 million in September 2007. Qwest sold the house three months later for \$7.1 million, eating a \$1.8 million loss. Qwest also paid about \$44,000 to maintain the California house while the company owned it, according to a regulatory filing.

In 2008, Mueller earned \$10.4 million in total compensation. He just wrapped up the second year of a three-year contract that, beginning in August 2010, renews automatically in one- year increments if neither party objects.

Under Mueller's leadership, Qwest stock has fallen by more than 50 percent, closing Tuesday at \$3.81 a share. The company, however, has continued to post profits, thanks largely to cost cuts.

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Health Care Enrollment Alert

Soon Qwest will be sending the enrollment packages for your review and selection of some benefit options. Although there are four similar health care plans for retirees who retired prior to 1991 and ERO retirees, you will receive only information about the Health Care Plan that is available to you. The plan that you have been assigned to was determined by the year of your retirement and the Company that you worked for at the time of your retirement. These determinations were made in 1989 bargaining and applied to Management retirees in the same timeframe, so you **do not** have a choice as to which Qwest sponsored healthcare plans is available to you. These plans were written by U S WEST (now Qwest), and are administered on their behalf by an insurance company, usually United Healthcare.

A choice that may be available to you depending on where you live, is between the Qwest healthcare plan that you have been assigned to, and an HMO (Health Maintenance Organization). The plan design of an HMO is determined solely by the HMO, such as what they will cover including prescription drugs, and other limits that they define in **their plan**. Qwest does not define these plans. Qwest simply will pay the equivalent amount towards the cost of the premium of these plans, and you

will be responsible for the payment of the difference between what Qwest pays and what the HMO charges.

Also keep in mind that if you are enrolled in the Qwest healthcare plan, and are Medicare eligible, Medicare is primary (pays first) and Qwest is secondary, and usually pays very little over and above what Medicare has paid.

You can combine Medicare and Qwest coverage with HMO coverage in a Medicare Advantage program if one is offered in your geographic area. These plans usually offer the widest range of services for the lowest cost, even though you may still have to pay a portion of the premium. However Medicare Advantage plans have been heavily subsidized by Medicare, and the Medicare program is lessening the subsidy and may shift more cost to you.

Post 1990 U S West/Qwest retirees have access to a company-sponsored and other health care plan, but Qwest reserves the right to change or cancel these benefits at any time.

Retirees in either group (pre-1991 or post-1990) cannot split their coverage. That is, they cannot, for example, opt for the company-sponsored plan for prescription drug coverage, and an HMO for all other services.

If you have questions about your benefits, contact the **Qwest Service Center...800-729-7526**
 Press **Option 2**, then select the appropriate options. To put your question or claim in writing, send to the:
Qwest Service Center, P.O. Box 23548, Jacksonville, FL 32241-3548

The address for the Qwest Benefit Office is: **Qwest Benefits, 1801 California St. 45th floor, Denver, CO 80202**

► *If you are unable to resolve your question after contact with the Qwest Service Center, contact your state Retiree Advocate:*

<u>State</u>	<u>Tel. No.</u>	<u>Email</u>
ARIZONA: Jim Heinze	303-442-1831	jjonrr@ecentral.com
COLORADO: Jim Heinze	303-442-1831	jjonrr@ecentral.com
IDAHO: Shirley Moss	208-342-3449	samoss05@msn.com
IOWA: Vikki Farrand	605-332-3670	LLFarrand308@yahoo.com
MINNESOTA: Barb Hermanson	763-757-4985	brbrhr@msn.com
MONTANA: Shirley Moss	208-342-3449	samoss05@msn.com
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NORTH DAKOTA: Arnie Pauls	701-451-0771	rvapauls@msn.com
OREGON: Howard Rickman and AUSWR Ombudsman	503-646-4848	teach39035@aol.com
SOUTH DAKOTA: Vikki Farrand	605-332-3670	LLFarrand308@yahoo.com
UTAH: Dick Johnson and Byron Lemmon	801-963-6220 801-295-4653	dick.sooz@comcast.net bylemmon99@msn.com
WASHINGTON: Shirley Jones	206-368-8686	benefit65@comcast.net
WYOMING: Jim Heinze	303-442-1831	jjonrr@ecentral.com

NRLN Pushes for Medicare Drug Savings

The NRLN advocates taking immediate steps to implement the four initiatives in the chart below which will create immediate and measurable ways to generate savings needed to reach a positive solution to unjustifiably high prescription drug costs. These initiatives will simultaneously create hundreds of billions of dollars in savings that can be spent to offset national health care reform costs.

The NRLN has advocated free market competition while also advocating safety in the production and marketing of prescription drugs.

Congress should enable the safe and controlled importation and competitive bidding of prescription drugs and robust formularies.

Furthermore, Congress should ensure that the FDA accelerates access to generic prescription drugs.

Backlogs of generic drugs awaiting approval have exceeded five (5) years and must be eliminated by providing for user fees and the staff needed to expedite approvals. Equally important, agreements that restrain competition

between brand and generic manufacturers such as pay-offs that keep lower-priced generic drugs off the market must be outlawed.



The NRLN projects that if Congress acts to implement these initiatives, 18% of the nation's \$3,567 billion in projected prescription drug expenditures over the next ten (10) years can be saved. This 18% savings would amount to \$630 billion:

If the pledge of \$80 billion in savings by the pharmaceutical industry in June of 2009 will close 50% of the Medicare D doughnut-hole, then Congress could allocate \$160 billion of this \$630 billion savings for the virtual elimination of the doughnut hole.

This would leave more than \$400 billion that could offset the \$1 trillion or higher cost of national health care reform over the next ten (10) years. In other words, this \$630 billion savings could potentially close 100% if the Medicare Part D doughnut hole and pay the equivalent of 40% or more of the bill for national health care reform.

<u>Recommended Initiatives</u>	<u>\$ Savings</u>	<u>% Savings</u>
Importation, Re-importation	\$ 178 billion	5%
Competitive Bidding	\$ 178 B	5%
Generic Drug Market Share Growth of 16%	\$ 203 B	6%
Elimination of Restraint in Trade Practices	\$ 71 B	2%
TOTALS	\$ 630 B	18%

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NRLN Stays Focused On Retiree Agenda During National Health Care Debate

The National Retiree Legislative Network (NRLN) and your state retiree organization **do not endorse nor support any health care reform bill proposed by the U S Congress committees.** We work with our local leaders and the NRLN executive staff in Washington, DC to read and review all legislation that may affect retirees —especially health care reform proposals. We lobby all of the Congressional committees and leaders to make sure our retiree agenda is considered in all legislation. The NRLN agenda that we advocate does not support a political party. To read the full NRLN legislative agenda, go to: www.NRLN.org.



by Bill Kadereit, NRLN President

National health care reform is in full swing. Party politics is playing a major role in the debates over health care reform. Liberal spenders who don't know how to pay for the expansion of health care are pitted against conservatives who say they want to fix the system, but don't want to raise the revenues and spend the money that would be required. Through all of the passionate rhetoric, the National Retiree Legislative Network (NRLN) is staying focused on its health care legislative agenda.

The NRLN's position includes the need for more open and fair competition in the health care and insurance industry. The government should not own clinics and hospitals. Neither should the government exercise control over doctors or their compensation, nor interfere with a person's ability to choose an insurance plan nor ration health care.

The NRLN continues work with Congressional committees and staffs ensuring that retirees may be more confident that employer-sponsored health care benefits they currently have will be difficult to reduce or eliminate. If the worst happens and the health care benefits are lost or reduced, then retirees should receive a payment equal to the value of their benefits at the time they retired. We call this our Maintenance-of-Cost Payment (MCP) proposal. Our Washington staff has been working diligently with members of Congress and staff members on this the MCP idea. One draft U. S. House bill embraces the MCP concept.

A retiree's health care plan—either provided by a former employer, private insurance or Medicare—should include protection in the event a catastrophic illness or surgery occurs. A reasonable out-of-pocket maximum needs to be included in the coverage. The U. S. House draft bill limits annual out-of-pocket spending to \$5,000 for an individual and \$10,000 for a family, indexed for inflation. We are attempting to learn whether this annual out-of-pocket limit will apply to Medicare participants. If not, we will pursue getting this coverage included in Medicare.

The NRLN legislative agenda includes a provision for retirees ages 50 to 64 so they would be able to buy into Medicare at a cost that will not burden the system and be affordable for the retiree. While one U. S. House bill's draft does not provide a Medicare buy-in, it does address providing persons ages 50 to 64 access to health care coverage regardless of pre-existing health conditions and prevents higher costs because of age.

For the past three years, the NRLN has advocated the elimination of the "doughnut hole" in the Medicare Part D prescription drug plan. The "doughnut hole" in the Medicare Part-D prescription drug plan that forces seniors to pay thousands of dollars out of their pockets when the cost of their drugs fall between \$2,700 and \$6,154 per year. The U. S. House Tri Committee draft bill would begin closing the "doughnut hole" with a \$500 reduction beginning in 2011, and eliminate it in phases over 15 years. We

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don't think that reduction timeline is fast enough and will continue to lobby for a quicker elimination of the "doughnut hole."

In late July, I sent letters and a White Paper to Congressional leaders, including the Chairmen of the three House committees and two Senate committees working on health care reform bills, asking them to take Prescription Drug Cost action either in health care reform bills or separate legislation to provide Americans access to safe, less expensive prescription drugs. I pointed out that Congress has the opportunity to bring about true health care reform, significantly reduce health care costs, and to simultaneously enable a cost-effective competitive marketplace for prescription drugs in the our country by passing legislation that:

- Enables safe re-importation and safe importation of prescription drugs.
- Enables Medicare to develop formularies (approved drugs) and take competitive bids for prescription drugs sold under Medicare Part D.
- Staffs and ensures funding for the FDA to reduce the generic drug approval back log and demands that all pharmaceutical manufacturers pay fees to support generic drug testing.

Also, in the recent "Prescription Drug Cost" White Paper, I urged the Congressional leaders to ask the President to order the Attorney General to stop market and price constraints contracted between brand and generic drug makers that keep generic drugs off the market for extended periods.

The "Prescription Drug Cost" White Paper in full report is available to read at: www.nrln.org/BKLETTERS/Whitepaper%20Prescription%20Drugs%20Final%20PDF%20072709.pdf.

The NRLN are is keeping a watchful-eye on proposals by the Obama Administration and some members on Congress as they have stated they would cut the costs of Medicare and Medicaid between \$200 billion and \$400 billion during the next 10 years. President Obama says the cuts will be targeted at "wasteful spending and fraud." The NRLN is vehemently opposed to any cuts in Medicare that would reduce services or drive doctors out of the Medicare program or cause them to stop accepting additional Medicare patients. We are mindful of the Medicare funding impacts on some rural areas already.

The NRLN continues to keep other legislative

agenda initiatives on our "radar screen" as we remain deeply involved in health care reform.

• **Social Security Oversight**

Plans are to rein-in the escalating costs of Social Security as the population ages and more workers take retirement. The Obama Administration has stated the 10-year budget shows the government raising 18 or 19 percent of revenue by the year 2019, and spending 24 or 25 percent. We are keeping a cautious eye on reform or funding plans.

• **Pension Protection**

Although health care reform has been in the spotlight for months, the NRLN has continued work on pension protection. We have been working with some influential lawmakers who have gained an understanding of why the NRLN believes it is important to stop companies from using assets from management pension plans to pay for severance payments or lump sum buyouts for salaried employees. We believe that in the case of pension plans for union employees and retiree, this issue should remain in the bargaining process.

• **Bankruptcy Reform.**

Another area where the NRLN is taking action is the effort to revise bankruptcy laws and the rules that the Pension Benefits Guaranty Corporation (PBGC) apply when it takes over a pension plan.

The NRLN has had a task force of retiree association leaders examining the current laws and rules and working on White Papers that will be the cornerstones of our lobbying efforts. Just as General Motors and Chrysler retirees never imagined that their companies would ever file for bankruptcy, the NRLN wants are working to ensure that the retirees from the next company declaring bankruptcy will be treated more fairly than those retirees have been in the past.

Finally, I want you to know that the NRLN appreciates the strong leadership from AUSWR Presidents: Kitty Kennedy (Arizona), Judy Stenberg (Oregon-Washington), and Mary Ann Neuman (NWB).

Also important to the NRLN are the AUSWR members who communicate the NRLN's positions to their members of Congress by participating in our local Grassroots teams and who make Individual Membership contributions to the NRLN.

Bill Kadereit