

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Honorable Marcia S. Krieger**

Civil Action No. 05-cv-0480-MSK-CBS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JOSEPH P. NACCHIO,  
ROBERT S. WOODRUFF,  
ROBIN R. SZELIGA,  
AFSHIN MOHEBBI,  
JAMES J. KOZLOWSKI,  
FRANK T. NOYES,

Defendants.

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**[PROPOSED] DISCOVERY PLAN ORDER**

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At the July 27, 2005 hearing and in the Memorandum Order Regarding Motion to Intervene and to Stay Proceedings, dated July 28, 2005 (Document No. 117), the Court directed the parties to submit joint or separate plans addressing the manner in which the parties believe discovery can go forward at this stage on a limited basis, in light of the intervention and motion for a stay of discovery by the Department of Justice (the "DOJ"). Accordingly, the parties filed the following papers: (1) Proposed Discovery Plan of Defendant James J. Kozlowski for the Next Five Months (Document # 127); (2) Amended Proposed Discovery Plan of Defendant James J. Kozlowski for the Next Five Months (Document # 128); (3) SEC Response to Draft Discovery Plans Submitted by Defendants Kozlowski and Noyes (Document # 129); Proposed Discovery Plan of Defendant Frank T. Noyes (Document # 130); (4) Proposed Discovery Plan Submitted by Plaintiff SEC, Defendants Joseph P. Nacchio, Robert S. Woodruff and Afshin Mohebbi and Intervenor-Party DOJ (Document # 131); and (5) Defendant James J. Kozlowski's

Reply to SEC's Response to [Proposed] Discovery Plans Submitted By Defendants Kozlowski and Noyes (Document # 132). The Court has considered these papers and held a hearing on this matter on September 28, 2005.

Based upon the foregoing, IT IS HEREBY ORDERED and that discovery shall proceed for approximately the next five months as follows:

1. Qwest Privilege Issues. As discussed further below, among the discovery in this case are materials subject to claims of attorney-client privilege and attorney work product asserted by Qwest Communications International Inc. ("Qwest") in private civil litigation ("Limited Waiver Material"). Subject to the provisions set forth below, Defendants have agreed to defer seeking access to the Limited Waiver Material at this time, given that the validity of Qwest's privilege claim in the context of the private civil litigation is being litigated there. Defendants' agreement to defer seeking access to the Limited Waiver Material at this time does not limit their right to obtain any and all discoverable information in this lawsuit, including the right to seek the Limited Waiver Material.

2. Transcripts of the SEC's Investigative Testimony. Defendants submitted to Plaintiff the Securities and Exchange Commission (the "SEC") and the DOJ a list of transcripts of certain investigative testimony taken by the SEC prior to commencing this action and requested that the SEC produce these transcripts. The DOJ objected to production of certain of these transcripts. In addition, Qwest requested the opportunity to review the transcripts of certain witnesses to identify any testimony it maintains is subject to its attorney-client or work-product privileges claims. Accordingly:

(a) In light of the objection asserted by the DOJ, the SEC shall at this time withhold from production to Defendants the investigative testimony transcripts that DOJ objects to being produced; these transcripts are set forth on **Exhibit A**;

(b) To address Qwest's request that it be permitted to review the testimony of certain witnesses for privilege-determination purposes, the SEC has provided the identified transcripts to Qwest for its review, and Qwest shall use its best efforts to produce these transcripts to Defendants, with any redactions of testimony that Qwest claims to be privileged, by October 14, 2005, or such reasonable time thereafter as the parties may so agree; these transcripts are set forth on **Exhibit B**;

(c) The remaining transcripts on Defendants' list of requested transcripts shall be produced by the SEC no later than the date of this Order; these transcripts are set forth on **Exhibit C**;

(d) No later than January 13, 2006, the DOJ shall submit to the Court and the parties a status report on its investigation and its position with respect to production of the transcripts set forth on **Exhibit A**, advising in particular whether it continues to object to production of any of these transcripts; and

(e) The foregoing does not limit, and is without prejudice to, Defendants' rights to seek production at a later date of the transcripts (or any portions of transcripts) now being withheld based on the DOJ's objection or based on Qwest's privilege review (including Defendants' rights to contest any assertion of privilege by Qwest with respect to testimony contained in any of the transcripts).

3. Exhibits to the SEC's Investigative Testimony.

(a) The SEC has provided to Qwest a set of all the exhibits to the investigative testimony for Qwest's review for privilege-determination purposes. Qwest shall use its best efforts to produce to Defendants by October 14, 2005, or such reasonable time thereafter as the parties may so agree, all exhibits, other than any exhibit or portion of exhibit that Qwest asserts is privileged. If privilege is asserted with respect to a portion of an exhibit, the exhibit shall be produced in redacted form. In the event Qwest asserts privilege with respect to an exhibit (or a portion of an exhibit), it shall produce to the parties a privilege log with sufficient information to set forth the nature and basis for the assertion of privilege and to identify the document, including the type of document, its general subject matter, the date, and its author and recipient; and

(b) The foregoing does not limit, and is without prejudice to, Defendants' rights to seek production at a later date of any exhibits (or portions of exhibits) that are withheld based on Qwest's privilege review (including Defendants' rights to contest any assertion of privilege by Qwest with respect to such exhibits).

4. Discovery Taken in the Qwest Class Action Case. Plaintiff SEC, Defendants Kozlowski and Noyes, and Intervenor-Party DOJ may obtain discovery taken in *In re Qwest Communications International Inc. Securities Litigation*, Civil Action No. 01-CV-1451-REB-CBS ("*In re Qwest*"), subject to an amendment to the Protective Order entered in *In re Qwest* and the entry of a similar protective order in this case. The pertinent parties, including Qwest, shall meet and confer to determine efficient, timely and cost-effect procedures for making the discovery from *In re Qwest* available to the foregoing parties. The Court will, with the entry of this Order, enter the confidentiality order previously submitted by the parties in *In re Qwest*

attached as **Exhibit D**, and the confidentiality order previously submitted by the parties in this case, attached as **Exhibit E**.

5. Document Production from the SEC.

The SEC advised that it obtained approximately 13 million pages of documents in the course of its pre-complaint investigation (“SEC Documents”). More specifically, the SEC advised that the SEC Documents include approximately 1200 CDs containing produced documents in electronic format and approximately 300 boxes of documents. The SEC also advised that it maintains electronic databases containing most of the documents on the 1200 CDs. Among the SEC Documents are Limited Waiver Materials. With the exception of those documents it obtained from the DOJ and the Limited Waiver Documents, the SEC shall produce to Defendants the SEC Documents as set forth below. Defendants’ rights to request documents obtained by the SEC from the DOJ, and their rights to seek access to any of the Limited Waiver Materials and/or challenge the validity of Qwest’s privilege assertions, are expressly reserved.

(a) No later than October 14, 2005, the SEC shall furnish to Defendants (i) indices it currently maintains concerning the contents of the boxes of documents and the other materials it has received, and the contents of the CDs containing documents in electronic format; and (ii) the subpoenas and other written requests for documents issued during the course of its investigation pursuant to which it received documents. After having the opportunity to review these indices and subpoenas/written requests, Defendants may meet and confer with the SEC to discuss more detailed information about the indexing, categorization and compilation of the foregoing documents and CDs; the SEC will consider in good faith any such request by Defendants, but it is not required to provide any additional information;

(b) On or about October 14, 2005, or such reasonable time thereafter as the parties may so agree, the SEC shall make available to a representative in Denver designated by Defendants, on a rolling basis, a copy set of the 300 boxes of documents, at the SEC's expense. The parties shall meet and confer to determine efficient, timely and cost-effect procedures for affording access to this material to all Defendants.

(c) On or about October 14, 2005, or such reasonable time thereafter as the parties may so agree, the SEC shall make available on a rolling basis for copying, at Defendants' expense, the 1200 CDs containing documents. The parties shall meet and confer to determine efficient, timely and cost-effect procedures for affording access to and facilitating copying of these CDs to all Defendants. To the extent appropriate, the parties should include Qwest in such a meet and confer process to avoid duplication of already-produced materials and facilitate efficient production to Defendants of this large quantity of material;

(d) Based upon agreement of the parties, the SEC at this juncture shall withhold from production documents that the SEC has obtained in its investigation that remain subject to Qwest's claim of privilege, given that the validity of that privilege claim in the context of private civil litigation is currently being litigated there and the parties anticipate it will be resolved in the near term. Accordingly, the production of those materials otherwise covered by this Order that are subject to Qwest's claim of privilege in the private civil litigation shall be deferred until the sooner of (i) judicial resolution of Qwest's privilege claim, or (ii) Defendants (or any of them) request in writing (with simultaneous written notice to Qwest) that the SEC provide access to the material, and the SEC shall upon receipt of such notice produce the materials within 25 days, or a shorter time as the parties might agree is feasible. Qwest has agreed to, and shall, facilitate

segregation of materials that currently are subject to Qwest's claim of privilege, and the parties shall meet and confer, including with Qwest, to accomplish this process.

(e) The SEC has agreed to make available to a representative of Defendants its computerized document database in the electronic format in which the SEC maintains the database for its own purposes, with the exception of any work product. However, the SEC has advised that this database presently is not operating properly and thus cannot yet be furnished to Defendants. The SEC shall endeavor in good faith to remedy these operational problems so that the database can be furnished to Defendants as soon as these problems are remedied. The SEC agrees to provide a written report to Defendants no later than November 30, 2005, regarding the status of remedying the database problems (including a date when the database is expected to be operational and ready to be furnished to Defendants), and to supplement that report thereafter as Defendants may reasonably request. The SEC represents that it intends to remedy the database problems such that the parties using it will be able reasonably to search for and retrieve specific documentation within the database to the same extent that the SEC can, assuming that Defendants obtain appropriate software. In furnishing the database to Defendants, the SEC shall cooperate with Defendants on technical and logistical issues with respect to transferring the data to Defendants, with the intent being that Defendants shall have access to appropriate documentation concerning this database and document retrieval equivalent to the SEC's capability. The SEC shall not be required to provide any hardware or software or support thereof to Defendants. Any access to the database shall be subject to Qwest's privilege claims and subparagraph 5(d) above, provided, however, that the parties can agree upon a cost effective and efficient way to segregate such materials subject to Qwest's privilege claims. The parties will confer in good faith with Qwest on developing a cost effective and efficient plan for furnishing

the database without the Limited Waiver Materials at this stage; Qwest shall use its best efforts and incur all reasonable costs for accomplishing this segregation process.

(f) In the event the SEC receives new or additional documents, it shall promptly produce them to Defendants.

6. Rule 26(a) Disclosures. The parties shall serve initial disclosures, pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, no later than January 30, 2006. The SEC shall provide its disclosures on a defendant-by-defendant basis, and the parties shall further provide disclosures in accordance with the Court's direction at the September 28, 2005 hearing.

7. Written Discovery Requests.

(a) The parties may serve interrogatories and requests for production of documents starting February 28, 2006; and

(b) Each Defendant may serve no more than 50 interrogatories and 30 requests for production of documents. The SEC may serve no more than 25 interrogatories and 25 requests for production of documents on each Defendant. These limitations on the total number of interrogatories and requests for production of documents are subject to reconsideration at any time based on a showing of good cause.

8. Stay of Discovery. Other than as set forth in this Discovery Plan Order, discovery is stayed, pending further order of the Court.

9. No Waiver With Respect to Other Discovery. Nothing set forth in this Discovery Plan Order shall be deemed to waive, curtail or restrict any party's rights (a) to seek and obtain discovery not agreed to or provided for under this Order at a later date; or (b) to seek and obtain discovery as may be further ordered by the Court.

10. Discovery Motions. The parties may not file any opposed discovery motions without leave of court. Counsel are instructed that should a discovery dispute arise, they are to comply with Local Rule 7.1A. in an effort to resolve the issues. If that is unsuccessful, counsel shall establish a conference call adding Magistrate Judge Shaffer as the last connection. The Court will hear arguments and attempt to mediate a resolution. The Court will instruct counsel at that time as to whether or not to file a discovery motion.

11. Subsequent Status Conference. The parties shall appear for a status conference on February 22, 2006, at 9:30 a.m.

Dated: \_\_\_\_\_

BY THE COURT:

\_\_\_\_\_  
Craig B. Shaffer  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 11<sup>th</sup> day of October, 2005, a true and correct copy of the foregoing [**PROPOSED**] **DISCOVERY PLAN ORDER** was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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*Attorneys for Joseph Nacchio*

/s/ Linda Ralph

**EXHIBIT A****Transcripts Withheld From Production at Request of Department of Justice**

Anschutz, Philip	1/13/2005
Grossman, Steven	8/18/2004
Grossman, Steven	8/19/2004
Grossman, Steven	8/23/2004
Hellman, Peter	8/17/2004
Hellman, Peter	8/18/2004
Hellman, Peter	10/20/2004
Hellman, Peter	10/21/2004
Heil, William	10/28/2002
Heil, William	11/1/2002
Iwan, Mark	4/7/2004
Iwan, Mark	4/8/2004
Iwan, Mark	4/9/2004
Iwan, Mark	4/20/2004
Iwan, Mark	4/21/2004
Iwan, Mark	8/31/2004
Iwan, Mark	9/1/2004
Martin, Gordon C.	4/15/2003
Martin, Gordon C.	4/16/2003
Martin, Gordon C.	4/24/2003
Matsuyama, Andrew	10/19/2004
Matsuyama, Andrew	10/20/2004
McQueen, Brad	11/12/2002
McQueen, Brad	11/13/2002
McQueen, Brad	11/24/2003
Mohebbi, Afshin	9/23/2004
Rana, Yash	7/7/2004
Schumacher, Mark	2/24/2004
Shaffer, Oren G.	12/2/2003
Stephens, Thomas	8/19/2004
Stephens, Thomas	8/20/2004
Stephens, Thomas	9/17/2004
Stephens, Thomas	11/3/2004
Stephens, Thomas	1/23/2003
Szeliga, Robin	9/9/2004
Treadway, Bryan	10/26/2004
Wolfe, Lee	1/27/2004
Wolfe, Lee	1/28/2004
Wolfe, Lee	1/29/2004
Wolfe, Lee	3/8/2004
Wolfe, Lee	3/9/2004

**EXHIBIT B****Transcripts To Be Produced After Privilege Review By Qwest**

Carr	6/19/2003
Carter, Heidi	5/21/2004
Cochran, Stacey	6/23/2003
Cruciotti, Augustine	1/16/2003
Devito	6/4/2003
Ershler, Susan K.	2/13/2003
Felicissimo, Michael	5/14/2003
Felix, William Leroy	11/21/2002
Halmgrimson, Matthew	7/31/2003
Iacovelli, Bruce	1/24/2003
Iacovelli, Bruce	3/17/2003
Iacovelli, Bruce	3/18/2003
Justice, Robert Joseph	7/12/2002
Kaufman	9/4/2003
McCoy	1/28/1918
Perferment, Steve	7/29/2004
Schmahl, Stephen D.	11/20/2003
Seals, Judith L. Rummel	8/8/2003
Slater, Craig	11/16/2004
Slater, Craig	11/17/2004
Strong, Kimberly	5/17/2004
Walker, John	2/21/2003
Weisberg, Marc	7/16/2003
Whalen, Michael	7/14/2004
Whalen, Michael	7/15/2004

**EXHIBIT C****Transcripts to Be Produced**

Armstrong, Jackie	7/12/2002
Barsema	5/21/2003
Beach, Michael Allen	1/23/2004
Bell, Peter George	5/5/2003
Brysch, James Patrick	6/26/2002
Brysch, James Patrick	9/4/2002
Coe, Alan P.	11/7/2002
Coe, Alan P.	11/8/2002
Floyd, Kenneth F.	3/28/2003
Huber, David	11/20/2003
Krautz, Michael W.	6/28/2002
Larsen, Kim	11/14/2003
McCormack, Edward	5/22/2003
McGrath, Andrew P.	11/21/2002
McGrath, Andrew P.	11/22/2002
Narducci, Anthony	4/9/2004
NeSmith, Brian	3/30/2004
Panditi	9/16/2003
Raciocot, Paul	7/1/2002
Ragavan	5/2/2003
Scheffel, Jennifer	10/3/2002
Walsh, David A.	7/8/2002
Wing Chuen Ng, Alexander	6/12/2002
Wright, Robin	6/7/2002
Yaremko, Robert	7/17/2002
Young, Chris	6/13/2002

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Honorable Marcia S. Krieger

Civil Action No. 05-CV-480-MSK-CBS

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

v.

JOSEPH P. NACCHIO,  
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AFSHIN MOHEBBI,  
GREGORY M. CASEY,  
JAMES J. KOZLOWSKI,  
FRANK T. NOYES,

Defendants.

**PLAINTIFF'S MOTION FOR ENTRY OF ORDER CONCERNING MATERIALS  
DESIGNATED CONFIDENTIAL IN CONSOLIDATED CASES**

The SEC has previously moved that limited discovery be permitted to obtain depositions, deposition exhibits, documents, and other discovery from parties in *In re Qwest Communications International, Inc. Securities Litigation*, Civil Action No. 1-cv-1451-REB-CBS (hereafter referred to as "consolidated cases"). Pursuant to the stipulation of the parties in the consolidated cases the Court has entered a confidentiality order. Counsel for Qwest in those consolidated cases and the SEC have prepared two orders, one in the consolidated cases and one in this matter that deal with the treatment of materials designated as confidential by the parties in the consolidated cases. Counsel for the SEC has circulated the proposed orders to counsel for defendants in this case, several of whom have participated in the drafting of the proposed order in this case. SEC counsel has also requested that all counsel in this case notify the SEC if they have any objection to the entry of an order in this case dealing with the disposition of materials designated as confidential in the consolidated cases. To date no defendant's counsel has notified SEC counsel of any objection to the proposed orders and counsel for defendants Kozlowski,



Noyes, Nacchio, and Mohebbi have all stated that they concur with the proposed order in this case. SEC counsel has been informed by Qwest's counsel in the consolidated cases that he has circulated the proposed order in those cases to all parties and that he has not received notice that any party in those cases objects to the proposed order in the consolidated cases.

Counsel for defendant Kozlowski has requested that the SEC notify the court of the following position, "[i]n order to avoid multiple and duplicative requests for discovery being served on the parties in the consolidated private actions by parties in SEC v. Nacchio, and to ensure that all parties in SEC v. Nacchio receive discovery requested of the parties in the consolidated private actions, the parties in SEC v. Nacchio should confer and cooperate in the preparation and submission of discovery requests to the consolidated private action parties." The SEC does not object to such language being included in any order of the court which grants the opportunity to engage in discovery of parties in the consolidated cases.

Respectfully submitted July 19, 2005.

s/

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### Certificate of Service

I hereby certify that on July 19, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

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S/ Robert M. Fusfeld

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Magistrate Judge Craig. B. Shaffer

Civil Action No. 05-CV-480-MSK-CBS

SECURITIES AND EXCHANGE COMMISSION

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AFSHIN MOHEBBI,  
GREGORY M. CASEY,  
JAMES J. KOZLOWSKI,  
FRANK T. NOYES,

Defendants.

Based on an agreement among the parties, and the Court being fully advised, it is hereby ORDERED

1. The parties shall be authorized to seek to discover documents, transcripts and other materials that have been designated as "Confidential" pursuant to the March 18, 2004 Stipulation And Protective Order Concerning Discovery entered in *In re Qwest Communications International, Inc. Securities Litigation*, Civil Action No. 1-cv-1451-REB-CBS, as amended, (hereafter referred to as "Confidential Discovery Material") on the conditions set forth in this Order. The parties understand that all Confidential Discovery Material will be clearly marked as "Confidential," i.e., all documents shall be physically and clearly stamped as "Confidential." Any document that is not stamped "Confidential" is not subject to this Order.

2. Use of Confidential Discovery Material: Absent further order of this Court, the parties shall use reasonable and good faith efforts to maintain the confidentiality of all such Confidential Discovery Material. Disclosure may be made to the following persons at the discretion of counsel:

- a. the parties to *SEC v. Nacchio*;
- b. the parties' counsel who have entered an appearance in *SEC v. Nacchio* and their employees, contract workers, assistants, litigation vendors or other support personnel reasonably deemed necessary to assist counsel appearing in *SEC v. Nacchio*;
- c. consultants or expert witnesses retained for the prosecution or defense of this litigation, but only to the extent deemed necessary in good faith by counsel for the pursuit or defense of claims in *SEC v. Nacchio*;
- d. any authors or recipients of such Confidential Discovery Material, or anyone who counsel for any party believes, in good faith, had access to the Confidential Discovery Material, or who counsel in good faith believes may provide information relating to or about such Confidential Discovery Material;
- e. the Court, Court personnel, and Court reporters, although the procedures set forth in Paragraph 7 hereto shall be followed before filing any Confidential Discovery Material in *SEC v. Nacchio*;
- f. any persons designated to serve as mediators or settlement judges;
- g. a deposition witness or other witness or person who counsel wishes to interview who reasonably appears to the disclosing party to have

information concerning the Confidential Discovery Material, or may provide information relating to or about such Confidential Discovery Material, but counsel will use good faith efforts to recover all copies and maintain custody over any Confidential Discovery Material shown to such persons. Confidential Discovery Material may be used as deposition exhibits without limitation, provided, however, that such exhibits, and the portions of the depositions discussing such exhibits, shall be treated as Confidential Discovery Material in accordance with the terms of this Order.

3. Responsibility for Compliance: The party's counsel who discloses Confidential Discovery Material shall be responsible for apprising persons to whom such Confidential Discovery Material is disclosed of this Order and shall take reasonable good faith efforts to assure compliance with this Order.

4. Notice of Intended Public Use of Confidential Discovery Material In Discovery and Pre-Trial Proceedings: In the event that a party to *SEC v. Nacchio* wishes to disclose any Confidential Discovery Material as publicly-available exhibits or attachments to any pleading in *SEC v. Nacchio*, the party wishing to use any such document shall provide written notice 15 business days prior to such disclosure to counsel for Qwest Communications International, Inc. ("Qwest") in the cases captioned, *In re Qwest Communications International, Inc. Securities Litigation*, identifying each such document. Counsel for Qwest shall notify other parties in that action. The parties to *SEC v. Nacchio* may provide less than 15 days written notice of their intent to use such material designated as Confidential Discovery Material should they in good faith be

unable to provide such written notice 15 business days in advance of intended use of the materials. In such case, the Confidential Discovery Material shall be filed in accordance with Paragraph 7 of this Order until the potentially interested parties have been accorded the time to file a motion in accordance with Paragraph 5 hereto, should they choose to do so.

5. Objection To Public Use of Discovery Material: Any party in *In re Qwest Communications International, Inc. Securities Litigation* or other person who has received notice who objects to such proposed disclosure shall file a motion with the court in *SEC v. Nacchio* within 10 business days of receiving such written notice. In the event any such party seeks to file a motion in *SEC v. Nacchio*, that party shall be deemed to have been allowed to intervene in *SEC v. Nacchio* for the sole and limited purpose of pursuing the relief sought by the motion, and such limited intervention shall not constitute any acceptance of jurisdiction in *SEC v. Nacchio* or participation in that case for any other purpose. Should no objection to the public use of such material be filed with the court within 10 business days of receipt of written notice, the parties to *SEC v. Nacchio* may make full use of any such document without restriction, both during the discovery phase of this case and at trial.

6. Trial Exhibits: No fewer than 15 business days prior to the trial of this case, or in accordance with such other schedule specified by the Court, the parties in *SEC v. Nacchio* shall provide to counsel for Qwest a complete list of exhibits that each party expects to use in its case-in-chief in *SEC v. Nacchio*, identifying each such document. Counsel for Qwest shall notify the other parties in that action. The parties to *SEC v. Nacchio* may provide less than 15 days written notice of their intent to use such material

designated as Confidential Discovery Material should they in good faith be unable to provide such written notice 15 business days in advance of intended use of the materials. Any party in *In re Qwest Communications International, Inc. Securities Litigation* or other person who has received notice who objects to such proposed disclosure at trial shall file a motion with the court in *SEC v. Nacchio* within 10 business days of receiving such notice. Should no objection be filed with the court within 10 business days of receipt of notice, the parties to *SEC v. Nacchio* may make full use of any such document at trial, without restriction. Nothing in this order prevents parties from at trial, in good faith, using Confidential Discovery Material for impeachment, to refresh recollection, or for any unanticipated purpose, without providing notice of such use. This includes reading aloud from the document in court. In the event that any counsel offers into evidence Confidential Discovery Material as an exhibit at trial for which there has been no prior notice of use to counsel for Qwest, the document shall be filed under seal in accordance with Paragraph 7 of this Order for a period of time sufficient to allow persons to consider and file an objection to the public filing of the documents, should they elect to do so; however, notwithstanding this notice provision, nothing shall prohibit the introduction into evidence of the document at the time it is sought to be used at trial, and nothing shall prevent the publication of the document to the jury or the consideration of the document by the jury. In such case, the party that has filed the document under seal shall give counsel for Qwest prompt written notice, identifying the document and specifying that it has been filed under seal.

7. Filing of Confidential Information in Court: In any case in which a person has filed an objection to public disclosure of Confidential Discovery Material and that

objection is still pending at the time of any filing deadline in any pretrial proceeding, such Confidential Discovery Material accompanying any pretrial pleading, motions, or other papers filed with the Court shall be filed under seal in accordance with D. Col. L. Civ. R. 7.2 and 7.3, and be kept under seal until further order of this Court.

8. Challenges to Confidential Designation: This Order shall be without prejudice to any party's motion for relief from or modification of the provisions of the Stipulation And Protective Order Concerning Discovery entered in *In re Qwest Communications International, Inc. Securities Litigation*, or to any other motion relating to the production, exchange, or use of any document or other information in the course of this action, provided, however, that no such motion shall be made after entry of a final judgment or settlement. Nothing herein shall impose any restriction on the use or disclosure by a party or its agent of its own information, or of information lawfully available to that party, or of information that lawfully came into the possession of the party independent of any disclosure of Confidential Discovery Material.

9. Nothing in this order shall prevent the SEC from complying with its obligations under law concerning disclosure of documents, including, but not limited to, its published Routine Uses of Information in its Forms 1661 and 1662, the Freedom of Information Act and any other statutes or rules applicable to the SEC. Persons who wish to request that documents made available to the SEC not be disclosed pursuant to the Freedom of Information Act [5 U.S.C. 552] ("FOIA") must comply with the procedures set forth in SEC rule 17 CFR 200.83 for requesting that information not be disclosed pursuant to the FOIA. Nothing in this order shall prevent the SEC from making use of any Material designated as Confidential Discovery Material pursuant to the SEC's

published Routine Uses of Information as set forth in SEC Forms 1661 and 1662. The SEC will use good faith to provide written notice to any person who has provided any material designated as Confidential Discovery Material 10 business days prior to making any disclosure pursuant to the Freedom of Information Act or in response to any subpoena in any litigation or proceeding provided such persons have fully complied with 17 CFR 200.83 and has also sent copies of any requests pursuant to 17 CFR 200.83 to SEC counsel of record in this action.

10. Duration of Stipulation/Return of Confidential Information: With respect to all parties other than the SEC, all provisions of this Order shall continue to be binding after the conclusion of this action, unless otherwise agreed or ordered by the Court. Upon conclusion of this litigation (whether by entry of a final order of dismissal, judgment, settlement, or disposition on appeal, or otherwise), a person in the possession of Confidential Discovery Material shall either (a) return such documents no later than 30 days after conclusion of this action to counsel for the party or non-party who produced such information, or (b) destroy such documents within the time period and certify in writing within 30 days that the documents have been destroyed. The Court shall retain continuing jurisdiction to enforce the terms of this Order after the conclusion of this action.

11. The SEC has agreed to use good faith to attempt to give 10 days written notice to any person who has fully complied with the provisions concerning written claims for confidential treatment under the Freedom of Information Act pursuant to 17 C.F.R. 200.83, and who has also sent a copy of such request to SEC counsel of record in this action, with respect to any contemplated disclosure of Confidential Discovery

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Material designated confidential pursuant to 17 C.F.R. 200.83 with respect to a FOIA request or in response to any subpoena in any litigation or other proceeding.

DATED at Denver, Colorado this \_\_\_ day of July, 2005.

BY THE COURT:

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Craig B. Shaffer  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Magistrate Judge Craig. B. Shaffer

Civil Action No. 1-cv-1451-REB-CBS

(Consolidated with Civil Action Nos. 01-cv-01472-REB-CBS, 01-cv-01527-REB-CBS,  
01-cv-REB-CBS, 01-cv-01799-REB-CBS, 01-cv-01930-REB-CBS, 02-cv-00755-REB-  
CBS, 02-cv-00798-REB-CBS, 04-cv-00238-REB-CBS)

In re QWEST COMMUNICATIONS INTERNATIONAL, INC. SECURITIES  
LITIGATION

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**FIRST AMENDMENT TO STIPULATION AND PROTECTIVE ORDER  
CONCERNING DISCOVERY, DATED MARCH 18, 2004**

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Good cause having been shown, Paragraph 5 of the Stipulation And Protective  
Order Concerning Discovery entered by this Court on March 18, 2004 ("Consolidated  
Protective Order") is HEREBY AMENDED<sup>1</sup> to add Paragraph 5(k), which shall state:

"(k) Any party in the case of *Securities And Exchange Commission v. Joseph P.  
Nacchio, et al.*, Civil Action No. 05-cv-0048-MSK-CBS, (*SEC v. Nacchio*), or to counsel  
for any such party, in response to any formal discovery request arising out of *SEC v.  
Nacchio*. The use and dissemination of any Confidential Information so disclosed shall  
be governed by the separate order entered by the Court in *SEC v. Nacchio*."

DATED at Denver, Colorado this \_\_\_ day of June, 2005.

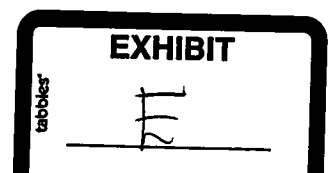
BY THE COURT:

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Craig B. Shaffer  
United States Magistrate Judge

---

<sup>1</sup> This amendment is not intended to modify or limit, and shall not modify or limit, the  
Consolidated Protective Order except as stated herein, nor does this amendment limit the right of any  
person or entity in this case or in *SEC v. Nacchio* to seek or oppose discovery in accordance with the  
applicable rules and principles governing discovery. Furthermore, nothing in this Order shall be deemed to  
preclude a party or non-party from seeking additional protection with respect to the confidentiality of  
documents, testimony, court papers or other matters.



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 01-CV-1451-REB-CBS

(Consolidated with Civil Action Nos. 01-RB-1472, 01-RB-1527, 01-RB-1616, 01-RB-1799, 01-RB-1930, 01-RB-2083, 02-RB-333, 02-RB-374, 02-D-507, 02-RB-658, 02-RB-755, 02-RB-798, and 04-RB-238)

In re QWEST COMMUNICATIONS INTERNATIONAL INC. SECURITIES LITIGATION

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**STATEMENT BY QWEST COMMUNICATIONS INTERNATIONAL INC.  
CONCERNING ANTICIPATED [PROPOSED] REVISIONS TO PROTECTIVE ORDER**

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Qwest Communications International Inc. respectfully submits this Statement in connection with the September 28, 2005 conference before United States Magistrate Judge Craig B. Shaffer. Qwest wishes to apprise the Court of revisions to the governing protective order that it anticipates proposing shortly. The purpose of these revisions will be to facilitate access by the parties to *Securities and Exchange Commission v. Nacchio et al.*, 05-CV-0480-MSK-CBS (D. Colo.) and the United States Attorneys' Office for the District of Colorado to discovery designated as Confidential in the above-captioned matter.

Qwest understands that the parties to *Securities and Exchange Commission v. Nacchio et al.* will submit a proposed protective order for that case in the near future. Upon entry of that order, or one that this Court deems to be appropriate, Qwest will seek to amend the protective order in the above-captioned action. The amendments Qwest will propose, which are supported by the parties to this lawsuit, the parties to *Securities and Exchange Commission v. Nacchio et al.*, and the United States

Attorneys' Office, are reflected in the redlined version of the existing protective order in this case, which is Exhibit 1 to this Statement.

DATED: September 27, 2005

Respectfully submitted,

/s/ Alfred P. Levitt

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of September, 2005, a copy of the foregoing **STATEMENT BY QWEST COMMUNICATIONS INTERNATIONAL INC. CONCERNING ANTICIPATED [PROPOSED] REVISIONS TO PROTECTIVE ORDER** was electronically filed with the Clerk of the Court using the USDC CM/ECF system, which will send notification of such filing to the following e-mail addresses:

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and, I also certify that I have served same by depositing in the U.S. Mail, first-class postage prepaid, addressed to the following:

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/s/ Jed Donaldson  
Jed Donaldson

**EXHIBIT 1**

**QWEST COMMUNICATIONS  
INTERNATIONAL INC.'S**

**SEPTEMBER 27, 2005**

**STATEMENT CONCERNING  
ANTICIPATED [PROPOSED] REVISIONS TO  
PROTECTIVE ORDER**

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 01-RB-1451(CBS)  
(Consolidated with Civil Action Nos. 01-RB-1472, 01-RB-1527, 01-RB-1616, 01-RB-1799, 01-RB-1930, 01-RB-2083, 02-RB-0333, 02-RB-0374, 02-RB-0507, 02-RB-0658 and 02-RB-755)

In re QWEST COMMUNICATIONS INTERNATIONAL INC. SECURITIES LITIGATION

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**STIPULATION<sup>†</sup> AND ~~PROPOSED~~ FIRST AMENDED PROTECTIVE ORDER  
CONCERNING DISCOVERY**

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<sup>†</sup> ~~Not participating in this Stipulation are those defendants named for the first time in the *Fifth Consolidated Amended Class Action Complaint for Violation of The Securities Act of 1933 and The Securities Exchange Act of 1934*: Gregory Casey; Afshin Mohebbi; and Vinod Khosla.~~

Good cause appearing therefore, the following stipulation of the parties in this matter as evidenced by signatures of counsel of record appearing below, is hereby ordered

DATED: \_\_\_\_\_  
MAGISTRATE JUDGE CRAIG B. SHAFFER

\* \* \*

**STIPULATED TERMS OF PROTECTIVE ORDER CONCERNING DISCOVERY**

Pursuant to Fed. R. Civ. P. 26(c), IT IS HEREBY STIPULATED AND AGREED by the respective undersigned counsel for the plaintiffs and defendants listed on the signature pages hereto that the following provisions shall govern disclosure and use of all documents, testimony, and other information designated "Confidential" that is produced or given by any person in the course of discovery in this action.

ACCORDINGLY, IT IS HEREBY STIPULATED AND AGREED that:

1. **Confidential Information:** In responding to discovery requests, whether made formally or informally, the producing party may designate documents or other materials "Confidential." The producing party shall designate information "Confidential" only when that party has a good faith belief that the information so designated is confidential within the meaning of Rule 26(c)(7) of the Federal Rules of Civil Procedure or other applicable law.
2. **Confidential Information Covered:** The protections conferred by this Stipulation cover not only the Confidential information, but also any information copied or extracted from such material, as well as all copies, excerpts, summaries, or compilations thereof,

and testimony or conversations that might reveal Confidential information. In addition, all documents previously produced to counsel for the Lead Plaintiffs herein shall be subject to the terms of this Stipulation.<sup>2</sup>

3. **Designating Information Confidential by Parties:** The designation of materials as Confidential by the parties to this litigation shall be made as follows:

(a) By imprinting the word "Confidential" on the face of each page of a document so designated or in a similarly conspicuous location for non-document materials;

(b) For written discovery, by imprinting the word "Confidential" next to or above any response to a discovery request or on each page of a response;

(c) For depositions, by indicating on the record at the deposition or, within forty five (45) days after the conclusion of said deposition, by informing all parties' counsel in writing that some or all of the transcript and/or responses be treated as Confidential information.

(d) For electronic format materials, by either imprinting the word "Confidential" on the face of each page of a document so designated, or by designating the production as "Confidential" in the transmittal cover letter.

4. **Designating Information Confidential by Non-Parties:** Non-parties from whom discovery is sought by the parties to this Stipulation may designate information as Confidential

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<sup>2</sup> Qwest produced to Milberg Weiss Bershad Hynes & Lerach LLP all non-privileged documents previously produced to the United States Securities and Exchange Commission, the United States Department of Justice, the New York Attorney General, and the Congress of the United States, either formally or informally, through June 30, 2003. The parties agree that these documents shall be treated as Confidential within the meaning of this Stipulation. However, plaintiffs reserve their right to challenge the Confidential designation of these documents pursuant to ¶ 9.

consistent with the terms of this Stipulation, provided that such non-parties agree in writing to be bound by the Stipulation. Additionally, any party may designate discovery produced by a non-party as Confidential. Where a party or non-party designates discovery produced by a non-party as Confidential, all duties applicable to a producing party shall apply to such non-party. All obligations applicable to parties receiving such information shall apply to any party receiving information from such non-party.

5. **Disclosure of Confidential Information.** The information designated as Confidential information pursuant to this Stipulation shall not be disclosed or disseminated to any person, corporation, partnership, firm, agency, association, or any other entity whatsoever without a Court order, except to:

- (a) parties to this litigation;
- (b) the parties' counsel who have entered an appearance in this action, and their employees, contract workers, assistants, litigation vendors or other support personnel as reasonably necessary to assist appearing counsel in this litigation;
- (c) in-house counsel for the respective parties to this litigation (and their secretaries, legal assistants, litigation vendors, or other support personnel), but only to the extent reasonably deemed necessary by counsel for the pursuit or defense of claims in this litigation;
- (d) employees or former employees of a party, but only to the extent deemed necessary in good faith by counsel for the pursuit or defense of claims in this litigation and only provided that each such person shall execute a copy of the Certification annexed to this Stipulation before being shown or given any Confidential information;

(e) consultants or expert witnesses retained for the prosecution or defense of this litigation, but only to the extent deemed necessary in good faith by counsel for the pursuit or defense of claims in this litigation and only provided that each such person shall execute a copy of the Certification annexed to this Stipulation before being shown or given any Confidential information;

(f) any authors or recipients of the Confidential information, or anyone who counsel for any party believes, in good faith, had access to the Confidential information, provided that each such person shall execute a copy of the Certification annexed to this Stipulation before being shown or given any Confidential information;

(g) the Court, Court personnel, and Court reporters, although the procedures set forth in paragraph 10 below shall be employed before filing any Confidential information;

(h) defendants' insurers or their counsel, but only to the extent reasonably deemed necessary by counsel and only provided that each such person shall execute a copy of the Certification annexed to this Stipulation before being shown or given any Confidential information;

(i) mediators and settlement judges; and

(j) a deposition witness or other witness who reasonably appears to the disclosing party to potentially have information concerning or involving the Confidential information;

(k) counsel for any party in *Securities And Exchange Commission v. Joseph P. Nacchio, et al.*, Civil Action No. 05-cv-0048-MSK-CBS provided that a protective order is entered in that case that provides comparable protection to this one; and

(l) The United States Attorney's Office for the District of Colorado (USAO) provided, however, that the USAO affords Confidential Information subject to this Order the

protections provided for under the February 10, 2003 agreement between Qwest and the USAO, attached as Exhibit B.

The information designated as Confidential information pursuant to this Stipulation shall only be disclosed in connection with the prosecution and defense of the claims in this litigation and any claims arising out of the prosecution or defense of this litigation. Notwithstanding the preceding sentence, parties and counsel bound by this Stipulation may disclose Confidential information to counsel of record in each of the following actions (a) *In re Qwest Savings and Retirement Plan ERISA Litigation*, Civil Action 02-RB-464, (b) *State of New Jersey, Department of Treasury, Division of Investment, by Treasurer John E. McCormac, v. Qwest Communications International Inc. et al.* No. L-3738-02, (c) *State Universities' Retirement System of Illinois v. Qwest Communications International Inc. et al.* No. 03CH00608, (d) *California State Teachers' Retirement System v. Qwest Communications International Inc. et al.*, No. 415546, and (e) such other cases as the parties may agree upon or shall be allowed by order of this Court, provided, however, that counsel in each of these cases is bound by this Stipulation or such other confidentiality order that may be established in each respective action.

6. **Responsibility for Compliance:** The party's counsel who discloses Confidential information shall be responsible for assuring compliance with the terms of this Stipulation with respect to persons to whom such Confidential information is disclosed, and shall obtain and retain the original Acknowledgments executed by qualified recipients of Confidential information (if such execution was required by the terms of this Stipulation).

7. **Inadvertent Production of Confidential Information Without Designation:** A party that has inadvertently produced Confidential information without designating it as

“Confidential” may at any time prior to the discovery cutoff in this action redesignate such information as “Confidential” in accordance the terms of this Stipulation. The party making such redesignation shall be responsible, at its own cost, of producing to all parties who so request new copies of the redesignated documents or materials with the “Confidential” legend. The party receiving such redesignated “Confidential” information shall make a reasonable good faith effort to ensure that the previously undesignated documents or materials subject to the redesignation be treated in conformance with any such redesignation.

8. **Reservation of Rights:** Nothing contained in the Stipulation or any designation of confidentiality hereunder, or any failure to make such designation, shall be used or characterized by any party as an admission by a party or a party opponent. Nothing in this Stipulation shall be deemed an admission that any particular information designated as “Confidential” is entitled to protection under the Order upon this Stipulation, Fed. R. Civ. P. 26(c), or any other law. Nothing in this Stipulation shall be construed as granting any person or entity a right to receive specific Confidential information where a court has entered an order precluding that person or entity from obtaining access to that information. The parties specifically reserve the right to challenge the designation of any particular information as Confidential.

9. **Challenges to Confidential Designation:** Entry of the Order upon this Stipulation shall be without prejudice to any party’s motion for relief from or modification of the provisions hereof or to any other motion relating to the production, exchange, or use of any document or other information in the course of this action, provided, however, that no such motion shall be made after entry of a final judgment or settlement. If a party disagrees with a

producing party's designation of information as Confidential, or disputes the limitations on access to be accorded such information under this Stipulation, the party contesting the designation or restriction on access shall provide to the producing party written notice of its disagreement and specifically identify the information or restriction on access in dispute, and state the reasons why the party believes such information is not Confidential. If, despite good faith effort, the dispute cannot be resolved informally by the parties within thirty (30) days of the producing party's receipt of the written notice, the party contesting the designation or restriction on access may seek relief from the Court. The parties do not intend to change the legal burden of demonstrating the confidentiality of such documents. Pending the Court's ruling, the party contesting the designation shall continue to treat the information in accordance with the "Confidential" designation.

**10. Filing of Confidential Information in Court:** All information subject to Confidential treatment in accordance with the terms of this Stipulation that is filed with the Court in any pretrial proceeding, and any pretrial pleading, motions, or other papers filed with the Court disclosing any Confidential information, shall be filed under seal in accordance with D. Col. L. Civ. R. 7.2 and 7.3, and be kept under seal until further order of this Court. The use of information designated as Confidential pursuant to this Stipulation at any hearing in this case shall be subject to future order of the Court. Nothing in this Stipulation shall be deemed to preclude a party or non-party from seeking additional protection with respect to the confidentiality of documents, testimony, court papers or other matters.

**11. Use and Disclosure of Independently Obtained Information Permitted:**  
Nothing herein shall impose any restriction on the use or disclosure by a party or its agent of its

own information, or of information lawfully available to that party, or of information that lawfully came into the possession of the party independent of any disclosure of Confidential information in this litigation.

12. **Duration of Stipulation/Return of Confidential Information.** All provisions of this Stipulation restricting the use of Confidential information shall continue to be binding after the conclusion of this action, unless otherwise agreed or ordered by the Court. Upon conclusion of the litigation (whether by entry of a final order of dismissal, judgment, settlement, or disposition on appeal, or otherwise), a person in the possession of Confidential information shall either (a) return such documents no later than thirty (30) days after conclusion of this action to counsel for the party or non-party who produced such information, or (b) destroy such documents within the time period and certify in writing within thirty (30) days that the documents have been destroyed. The Court shall retain continuing jurisdiction to enforce the terms of this Stipulation after the conclusion of this action.

13. **Preservation of Objections and Privileges.** Nothing herein shall be deemed to waive any applicable common law or statutory privilege or work product protection. Nothing contained in this Stipulation, nor any action taken in connection or in compliance with it, shall: (i) operate as an admission by a party that any particular document is, or is not, relevant, material and/or admissible as evidence in this litigation; or (ii) bar a party from seeking to quash, prohibit or otherwise limit the use or introduction of any Confidential information in connection with any aspect or at any stage of this case. Further, nothing herein shall be deemed to preclude a party from seeking additional protection with respect to the confidentiality of documents, testimony, court papers or other matters.

In addition, where production results in an inadvertent disclosure of documents, information, and/or other materials that are subject to claims of protection under the attorney-client privilege, work product doctrine, or other doctrines of nondisclosure (collectively, "Privileged Material"), a party may notify in writing any other party that said production was an inadvertent disclosure of Privileged Material and demand return thereof. On such demand, the other party or parties shall return such Privileged Material and destroy all copies, extracts, summaries or records thereof. The parties agree that inadvertent disclosure of Privileged Material shall not constitute any waiver of any such doctrine or privilege of nondisclosure with respect to the Privileged Material or any portions thereof, or the subject matter(s) discussed in the Privileged Material. A party's return of such document or item is without prejudice to its right to challenge the claim or privileges of nondisclosure. In challenging the claim of privilege as to any such document or item, the party returning the document or item shall be entitled to refer to and summarize the document in any pleading filed under seal with the Court.

14. **Scope of Discovery not Addressed:** Nothing in this Stipulation shall constitute an agreement as to the scope of discovery.

DATED: March 11, 2004

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**EXHIBIT A**

**(EXHIBIT 1)**

**QWEST COMMUNICATIONS  
INTERNATIONAL INC.'S**

**SEPTEMBER 27, 2005**

**STATEMENT CONCERNING  
ANTICIPATED [PROPOSED] REVISIONS TO  
PROTECTIVE ORDER**

**EXHIBIT A TO  
STIPULATION AND PROTECTIVE ORDER CONCERNING DISCOVERY**

**ACKNOWLEDGMENT**

I hereby attest to my understanding that confidential information or documents, materials, or information are being provided to me pursuant to the terms and conditions of the Stipulation and Protective Order Concerning Discovery ("Stipulation") executed by the parties and entered by the Court in the above-captioned litigation. I hereby attest that I have been given a copy of and have read the Stipulation and that I hereby agree to be bound by it and its terms. I agree that I shall not disclose to others, except in accordance with the terms of the Stipulation, such confidential documents, materials, or information. I further agree that the United States District Court for the District of Colorado has jurisdiction to enforce the terms of the Stipulation, and I consent to jurisdiction of that Court over my person for that purpose.

If I am signing on behalf of a firm of consultants, experts, court reporters, videographer, or litigation support vendors, I further state that I have authority to sign on behalf of my firm, and that I will make sure that all firm personnel who work on this litigation are made aware of this Stipulation and the firm's responsibilities hereunder.

Signature: \_\_\_\_\_  
Name (type or print): \_\_\_\_\_  
Position: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT B**

**(EXHIBIT 1)**

**QWEST COMMUNICATIONS  
INTERNATIONAL INC.'S**

**SEPTEMBER 27, 2005**

**STATEMENT CONCERNING  
ANTICIPATED [PROPOSED] REVISIONS TO  
PROTECTIVE ORDER**

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MACKEY & FOREMAN, P.C.  
ATTORNEYS-AT-LAW

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Rachel A. Bellis | Fredric M. Winocur | Kevin M. McGreevy | Bryan Morgan, Of Counsel

February 10, 2003

William J. Leone, Esq.  
First Assistant United States Attorney  
Office of the United States Attorney  
1225 Seventeenth Street, Suite 700  
Denver, Colorado 80202

RE: *IN THE MATTER OF QWEST COMMUNICATIONS INTERNATIONAL, INC.*

Dear Mr. Leone:

Qwest Communications ("Company") and a committee of its Board of Directors are in the process of conducting an analysis of its accounting policies, its application of those policies to particular transactions, and various other matters related to Qwest's financial reporting. The Company and the Board have developed facts, data and underlying information in connection with this analysis. In light of the common interest of the Department of Justice ("DOJ") in determining whether there have been any violations of federal law, including the federal securities laws, and in light of the public interest in encouraging full cooperation by the Company and full assistance in investigating these matters, and the Company's and the Board's interests in investigating and analyzing the circumstances and people involved in the events at issue, the Company and the Board have provided and may in the future provide to DOJ oral briefings and copies of certain documents ("Confidential Materials").

Please be advised that by producing the Confidential Materials pursuant to this agreement, the Company and the Board do not intend to waive the protection of the attorney work product doctrine, attorney-client privilege, or any other privilege applicable as to third parties. The Company and the Board believe that the Confidential Materials are protected by, at a minimum, the attorney work product doctrine and the attorney-client privilege. The Company and the Board believe that the Confidential Materials warrant protection from disclosure.

DOJ will maintain the confidentiality of the Confidential Materials pursuant to this agreement and will not disclose them to any third party, except to the extent that DOJ determines that disclosure is otherwise required by law or would be in furtherance of DOJ's discharge of its duties and responsibilities. The Company and the Board acknowledge that DOJ may share the Confidential Materials with other State, Local and Federal agencies provided that such agencies agree to the terms of this agreement. In addition, DOJ may make direct or derivative

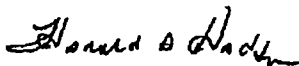
William J. Leone, Esq.  
February 10, 2003  
Page 2

use of the Confidential Materials in any proceeding and its investigation. Neither the Company nor the Board will assert any objection, claim or defense arising out of any inquiry or investigation arising from the direct use of Confidential Materials on the ground that such inquiry invaded or compromised any attorney client or work product privilege.

The DOJ will not assert that production by the Company or the Board of the Confidential Materials to the DOJ constitutes a waiver of the protection of the attorney work product doctrine, the attorney-client privilege or any other privilege applicable as to any third party. The DOJ agrees that it will not assert that either the Company or the Board has waived any applicable privilege with respect to any other documents or materials. Similarly, the Company and the Board agree that, by executing this agreement, the DOJ does not waive or relinquish any of its rights to seek other or additional information, or to claim that grounds may exist apart from the production of Confidential Materials for obtaining such other or additional information.

DOJ's agreement to the terms of this letter is signified by your signature on the line provided below.


Sincerely,



Harold A. Haddon  
For Qwest Communications International, Inc.

AGREED AND ACCEPTED:

United States Department of Justice

By   
William J. Leone  
First Assistant United States Attorney  
District of Colorado