

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

Criminal Case No.

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. JOSEPH P. NACCHIO,

Defendant.

INDICTMENT

15 U.S.C. § 78j

15 U.S.C. § 78ff

17 C.F.R. § 240.10b-5

17 C.F.R. § 240.10b5-1

18 U.S.C. § 981

28 U.S.C. § 2461

COUNTS ONE THROUGH FORTY TWO

(Securities Fraud - Insider Trading)

The Grand Jury charges that at all times relevant to this Indictment:

1. Defendant JOSEPH P. NACCHIO (“NACCHIO”) was employed as the Chief Executive Officer and a member of the Board of Directors of Qwest Communications International Inc. (“Qwest”) and its predecessors from in or about January 1997 until June 2002.
2. Qwest was a publicly held company whose shares traded on the New York Stock Exchange under the ticker symbol “Q”.

3. Qwest, through NACCHIO and others, reported its financial results, including its revenues, earnings and growth rates, to the public each fiscal quarter. These results were reported in press releases, direct communications with investors and investment analysts, and in quarterly and annual reports to the United States Securities and Exchange Commission. Qwest, through NACCHIO and others, also issued financial guidance, generally referred to as targets, to the investing public concerning Qwest's future revenue, growth, and earnings. This guidance was repeatedly reaffirmed by NACCHIO prior to September 10, 2001.
4. From the time that Qwest common stock first began to trade on a national securities exchange, Qwest had an insider trading policy prohibiting its employees, including NACCHIO, from selling Qwest common stock and other Qwest securities while in possession of material, non-public information. NACCHIO knew this policy, was repeatedly reminded of it and was advised that selling Qwest common stock while in possession of such information was a crime.
5. Qwest's business included two types of revenue: recurring revenue and non-recurring revenue. Recurring revenue was revenue that Qwest earned each month during the life of a customer as it rendered services to that customer. Non-recurring revenue typically resulted from one-time, quarter-end transactions.
6. No later than December 4, 2000, through and including September 10, 2001, NACCHIO was aware of material, non-public information about Qwest's business, including, but not limited to: (a) that Qwest's publicly stated financial targets, including its targets for

2001, were extremely aggressive and a “huge stretch”; (b) that in order to achieve its publicly stated financial targets for 2001, Qwest would be required to significantly increase its recurring revenue business during the first few months of 2001; (c) that Qwest’s past experience or “track record” in growing recurring revenue at a sufficient rate to meet its publicly stated financial targets was poor; (d) that Qwest’s recurring revenue business was underperforming from early 2001 and was not growing at a sufficient rate to meet Qwest’s publicly stated financial targets; (e) that there were material undisclosed risks relating specifically to Qwest’s recurring and non-recurring revenue streams that put achievement of Qwest’s 2001 publicly stated financial targets in jeopardy; (f) that the gap between Qwest’s publicly stated financial targets and Qwest’s recurring revenue was increasing, thus increasing Qwest’s reliance on risky and unsustainable one-time transactions; and (g) that there would be insufficient non-recurring revenue sources to close the gap between Qwest’s publicly stated financial targets and its actual performance.

7. Beginning as early as August 2000, NACCHIO was specifically and repeatedly warned about the material, non-public financial risks facing Qwest and about Qwest’s ability to achieve its aggressive publicly stated financial targets.
8. NACCHIO’s stock sales accelerated in January 2001 as he became aware of additional material, non-public information.
9. Beginning on or about January 2, 2001, and continuing through and including September 10, 2001, NACCHIO, in the District of Colorado and elsewhere, did knowingly and

willfully, directly and indirectly, by the use of means and instrumentalities of interstate commerce and of the mails, and the facilities of a national securities exchange use and employ, in connection with the purchase and sale of a security registered on a national securities exchange, a manipulative and deceptive device, scheme, artifice or contrivance to defraud in contravention of Rule 10b-5 (17 C.F.R. § 240.10b-5) and Rule 10b5-1 (17 C.F.R. § 240.10b5-1) prescribed by the United States Securities and Exchange Commission. More specifically, NACCHIO, in furtherance of this scheme to defraud, did knowingly and willfully sell, using the instrumentalities of interstate commerce and the facilities of a national securities exchange more than \$100 million worth of Qwest common stock on the dates and in the amounts set forth in Counts 1 through 42 while aware of and on the basis of material, non-public information on or about the dates and in the amounts set forth below. The allegations in paragraphs 1 through 9 above are realleged in each of the following Counts numbered 1 through 42:

Count	Trade Date	# of Shares	Sale Price per Share	Gross Sale Price
1	1/2/01	196,723	\$ 39.8394	\$ 7,837,326.29
2	1/3/01	160,000	\$ 40.2093	\$ 6,433,488.00
3	1/26/01	7,500	\$ 43.2800	\$ 324,600.00
4	1/29/01	92,500	\$ 43.1356	\$ 3,999,043.00
5	1/30/01	70,000	\$ 43.3571	\$ 3,034,997.00
6	2/1/01	10,000	\$ 41.7500	\$ 417,500.00
7	2/5/01	70,000	\$ 40.2261	\$ 2,815,827.00
8	2/6/01	30,000	\$ 41.3967	\$ 1,241,901.00
9	2/7/01	20,000	\$ 41.0000	\$ 820,000.00
10	2/8/01	90,000	\$ 40.7822	\$ 3,670,398.00
11	2/9/01	10,000	\$ 40.5000	\$ 405,000.00
12	2/12/01	70,000	\$ 40.9857	\$ 2,868,999.00
13	2/13/01	30,000	\$ 41.3433	\$ 1,240,299.00

14	2/13/01	180,000	\$ 41.6898	\$ 7,504,164.00
15	2/15/01	70,000	\$ 40.1857	\$ 2,812,999.00
16	2/20/01	11,500	\$ 37.4763	\$ 430,977.45
17	2/21/01	11,500	\$ 37.3670	\$ 429,720.50
18	2/22/01	11,500	\$ 36.4497	\$ 419,171.55
19	2/23/01	11,500	\$ 34.8355	\$ 400,608.25
20	2/26/01	11,500	\$ 38.1230	\$ 438,414.50
21	2/27/01	11,500	\$ 37.8861	\$ 435,690.15
22	2/28/01	11,500	\$ 37.2978	\$ 428,924.70
23	3/1/01	11,500	\$ 35.1291	\$ 403,984.65
24	4/26/01	350,000	\$ 38.8559	\$ 13,599,565.00
25	4/27/01	300,000	\$ 39.6716	\$ 11,901,480.00
26	4/30/01	110,000	\$ 41.1182	\$ 4,523,002.00
27	5/1/01	100,000	\$ 40.8353	\$ 4,083,530.00
28	5/3/01	50,000	\$ 39.0852	\$ 1,954,260.00
29	5/7/01	70,000	\$ 38.3086	\$ 2,681,602.00
30	5/8/01	20,000	\$ 38.7000	\$ 774,000.00
31	5/9/01	30,000	\$ 38.0000	\$ 1,140,000.00
32	5/10/01	43,200	\$ 38.0000	\$ 1,641,600.00
33	5/11/01	20,000	\$ 37.2250	\$ 744,500.00
34	5/14/01	56,800	\$ 37.6367	\$ 2,137,764.56
35	5/15/01	105,000	\$ 37.7667	\$ 3,965,503.50
36	5/18/01	20,000	\$ 38.0000	\$ 760,000.00
37	5/21/01	10,000	\$ 38.1140	\$ 381,140.00
38	5/22/01	10,000	\$ 38.6027	\$ 386,027.00
39	5/23/01	10,000	\$ 38.2320	\$ 382,320.00
40	5/24/01	4,100	\$ 38.0012	\$ 155,804.92
41	5/25/01	15,900	\$ 38.0000	\$ 604,200.00
42	5/29/01	5,000	\$ 38.2500	\$ 191,250.00
TOTAL		2,528,723		\$ 100,812,582.02

All in violation of 15 U.S.C. §§78j (§ 10b) and 78ff, SEC Rule 10b-5 (17 C.F.R. § 240.10b5) and SEC Rule 10b5-1 (17 C.F.R. § 240.10b5-1).

FORFEITURE ALLEGATIONS

Upon conviction of one or more of the offenses alleged in Count(s) 1 through 42 of this Indictment, NACCHIO shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C), 18 U.S.C. § 1956(c)(7)(A), 18 U.S.C. § 1961(1)(D), and 28 U.S.C. § 2461(c), a sum of money equal to a total of

\$ 100,812,582

in United States currency, representing the amount of proceeds obtained as a result of the offenses. If any of the above described forfeitable property, as a result of any act or omission of the Defendant: (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (c) has been placed beyond the jurisdiction of the Court; (d) has been substantially diminished in value; or (e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b) and 28 U.S.C. § 2461(c), to seek

forfeiture of any other property of NACCHIO up to the value of the forfeitable property described above.

A TRUE BILL:

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FOREPERSON

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