

## Rick Sallinger's CBS4 Nacchio Trial Blog

Contact reporter Rick Sallinger at [rsallinger@cbs.com](mailto:rsallinger@cbs.com)

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Rick Sallinger  
Reporting

*(CBS4) Editor's note: CBS4 reporter Rick Sallinger will be providing a blog of his coverage of the Joe Nacchio trial at the federal courthouse in Denver. Nacchio, former CEO of Denver-based Qwest Communications, is charged with improperly selling \$101 million of stock months before the telephone service provider for 14 mostly Western states became mired in a multibillion dollar accounting scandal.*

**Thursday, March 29, 2007**

10:00 a.m.: A federal judge has barred prosecutors from attempting to present evidence that Joe Nacchio was trying to hide assets when he transferred them to his wife. U.S. District Judge Edward Nottingham rejected the request Thursday morning, saying the asset transfer occurred in February 2002, 10 months after the stock sales that are the subject of the insider trading trial. Nottingham said the transfer occurred so long after the time period in which Nacchio is accused of insider trading that it's irrelevant. Nottingham said he wants the jury to focus on the narrow issues of the trial. - from AP

# cbs4denver.com: Qwest's CEO Gets Comp Valued At \$22.7M



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© Mar 30, 2007 9:16 am US/Mountain

### Qwest's CEO Gets Compensation Valued At \$22.7M By Sandy Shore, AP Business Writer

(AP) DENVER Qwest Communications chief executive Richard Notebaert received a 2006 compensation package valued at \$22,705,903 including salary and other payments, according to a regulatory filing on Thursday.

Richard Notebaert's package came as Qwest Communications International Inc. last year began to post its first loss in six years without gains from asset sales.

In addition to a \$1.1 million salary, Notebaert received \$4.14 million in non-equity incentive plan compensation with an estimated value of about \$16.7 million on the days they were granted, according to the Securities and Exchange Commission filing.

Notebaert earned \$757,913 in perks that included such items as personal use of a corporate jet, financial planning, business club membership and personal ground transportation, the SEC filing said.

The Associated Press calculations of total pay include executives' salary, bonus, incentives, perks, other compensation and the estimated value of stock options and awards granted during the year. The calculations do not include the present value of pension benefits and sometimes differ from the totals released by the companies.

Qwest stock closed up 10 cents at \$8.95 a share Thursday on the New York Stock Exchange.

Notebaert took over at Qwest in 2002 after then-CEO Joe Nacchio resigned under pressure. Nacchio is illegally selling \$101 million worth of stock in early 2001. He has pleaded not guilty.

Qwest Communications is the primary telephone service provider in 14 mostly Western states.

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Richard Notebaert (file)

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## cbs4denver.com: Former Qwest President Testifies In Nacchio Trial



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© Mar 30, 2007 5:22 am US/Mountain

## Former Qwest President Testifies In Nacchio Trial

Former Qwest CEO Charged With 42 Counts Of Insider Trading

⇒ Rick Sallinger's CBS4 Nacchio Trial Blog

(AP) DENVER The former president of Qwest will testify Monday in the trial of former CEO Joe Nacchio.

Nacchio is on trial in federal court for allegedly dumping \$101 million in stock when he learned the company was in bad financial shape.

Afshin Mohebbi, former president, began telling jurors Thursday about the beginnings of Qwest's plans to acquire U.S. West Incorporated before the trial recessed for the weekend. He is expected to resume on the stand Monday.

The former head of a Qwest division that handled consumer and small business products testified Thursday that he believed 2001 financial targets for his unit were "unattainable," yet Nacchio was angry when the company missed the goals.

Earlier Thursday, the federal judge barred prosecutors from attempting to present evidence that Nacchio was trying to hide assets when he transferred them to his wife.

U.S. District Judge Edward Nottingham rejected the request Thursday morning, saying the asset transfer occurred in February 2002, 10 months after the stock sales that are the subject of Nacchio's insider trading trial.

Nottingham said the transfer occurred so long after the time period in which Nacchio is accused of insider trading that it's irrelevant. Nottingham said he wants the jury to focus on the narrow issues of the trial.

A former Qwest controller testified Wednesday he decided against selling company stock in the spring of 2001 because of concerns about financial disclosures.

Mark Schumacher told jurors that the company withheld information about one-time sales. He said he believed those sales represented a significant amount of the company's overall revenue and should have been released publicly.

He continued his testimony for a time Thursday morning.

Nacchio has pleaded not guilty to 42 counts of insider trading.

Nacchio could face up to 10 years in prison and a \$1 million fine if convicted.

Denver-based Qwest Communications International Incorporated is the primary telephone service provider in 14 Midwestern and Western states.

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# cbs4denver.com: Prosecutors Hope To Wrap Up Nacchio Trial



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⌚ Apr 2, 2007 1:23 pm US/Mountain

### **Prosecutors Hope To Wrap Up Case In Nacchio Trial** By Sandy Shore, AP Business Writer

(AP) DENVER Prosecutors hope to wrap up their insider trading case against former Qwest CEO Joe Nacchio and other managers who detailed financial challenges facing the company when Nacchio sold \$101 million of stock.

The trial was entering its third week Monday with Afshin Mohebbi, a former Qwest Communications president, resuming testimony.

Prosecutors have told the judge they plan to finish their direct case by Wednesday or Thursday. The trial is expected to last up to eight weeks.

Nacchio, 57, is accused of illegally selling stock while knowing nonpublic information that Qwest Communications International Inc. would have a difficult time meeting 2001 financial targets.

The risks were not released publicly until August of that year despite a growing chorus of then high-ranking executives saying that the goals were unrealistic given aggressive competition and the slowing economy.

A key point in the government's case was Qwest's practice of relying on revenue from one-time sales of assets.

Mohebbi was expected to testify about concerns he raised with Nacchio in December 2000 and early 2001.

2001, e-mail to then-Chief Financial Officer Robin Szeliga filed in the case, Mohebbi wrote, "We need the end of first quarter or we are screwed."

Mohebbi is one of several former Qwest executives testifying in the case either with a grant of immunity agreement.

Nacchio acknowledges the stock sales but argues that they were legal because he believed the comp

He has said he -- and he alone among top Qwest executives -- knew of secret contracts from clandestine deals that potentially could be worth millions of dollars to Qwest, but that information was excluded from revenue

Each of the 42 insider trading counts against Nacchio carries a penalty of up to 10 years in prison and a

Federal regulators say Qwest falsely reported fiber-optic capacity sales as recurring instead of one-time sales in March 2002.

The practice allowed Qwest to improperly report approximately \$3 billion in revenue, which helped pay for the former Baby Bell U S West Inc., regulators have alleged. Qwest later restated about \$2.2 billion in revenue

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Joe Nacchio (file)

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# cbs4denver.com: Billionaire Anschutz Te Nacchio's Behalf



## Top News

© Apr 5, 2007 12:49 pm US/Mountain

### Billionaire Anschutz Testifies On Nacchio



Rick Sallinger  
Reporting

(CBS4/AP) DENVER A Denver federal judge recessed the insider trading trial of Joe Nacchio a few hours to give prosecutors and defense attorneys time to review evidence that an expert witness plans to present. That Qwest founder Philip Anschutz testified.

Judge Edward Nottingham also ordered the defense to notify prosecutors by Saturday evening whether Nacchio, 57, faces 42 counts of insider trading in connection with the sale of \$101 million worth of stock.

Earlier Thursday, Anschutz testified that, at that time, Nacchio wanted to resign from the company and to kill himself.

"I was surprised at the news of his son and further fact he wanted to resign from the company," Anschutz said Nacchio was "quite agitated, very emotional," and said Nacchio broke down in tears. A Nacchio was taking several days off, but eventually returned to work.

The testimony was designed to give jurors an idea of Nacchio's state of mind.

The testimony was designed to give jurors an idea of Nacchio's state of mind.

The testimony was designed to give jurors an idea of Nacchio's state of mind.

The prosecution made a point to impress upon the jury that Nacchio was given even more money an

Nacchio's attorneys have said it should take no more than a-day-and-a-half to present their case to j  
rest sometime Monday.

The trial will be in recess Friday.

Each count against Nacchio carries a penalty of up to 10 years in prison and a \$1 million fine if he's c

Denver-based Qwest is the primary telephone service provider in 14 Midwestern and Western states.

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*"I was surprised at the news of his son and further fact he wanted to resign fro*

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Qwest founder Philip Anschutz gave testimony Thursday morning, April 5, 2007, in former CEO Joe Nacchio's fe

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Joe Nacchio (file)

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Apr 5, 2007 5:14 am US/Mountain

# Anschutz To Testify In Nacchio's Trial

## Government Rests Case In Nacchio Trial

### Former Qwest CEO Charged With 42 Counts Of Insider Trading

By Sandy Shore, AP Business Writer



Rick Sallinger  
Reporting

*(AP) DENVER* Denver billionaire Philip Anschutz, who hired Joe Nacchio to turn Qwest Communications into a major telecommunications company, has been chosen to kick off the defense's case in Nacchio's insider trading trial Thursday morning.

Anschutz was scheduled to be Nacchio's first witness. He was expected to testify about Nacchio's employment contract that included shares representing 3 percent of the company's growth, or about \$27 million dollars, by December 2001.

Prosecutors rested their case against the former Qwest CEO on Wednesday after more than a dozen company managers, industry analysts and others testified they were worried about looming financial challenges at the time Nacchio was selling \$101 million in stock.

Defense attorneys will open their case Thursday. By next week, they are expected to begin introducing evidence about classified business contracts from secret agencies, a key part of Nacchio's strategy.

The jury was sent home early Wednesday so prosecutors and defense attorneys could argue motions.

In the past 10 days, jurors have heard from a series of one-time Qwest business division managers and executives in Nacchio's inner circle who described a tense atmosphere at Qwest in 2000 and 2001 after it acquired former Baby Bell U S West Inc. They said Nacchio emphasized meeting what they considered unrealistic targets, along with keeping the company's stock price up.

Prashant Khemka, a Goldman Sachs asset manager, testified Wednesday that Nacchio said the company would achieve its projection of 15 percent to 17 percent revenue growth but did not explain it would use a significant portion of one-time sales revenue to

achieve them.

Khemka said he became increasingly frustrated in 2001 when he could not get satisfactory answers about the company's reliance on one-time sales. "We had been raising questions all along and not getting answers to them," he said.

In a letter sent to Nacchio in the summer of 2001, Khemka told the chief executive Qwest had a credibility issue and called 2001 a year of "failed promises and unpleasant shocks."

"The lack of transparency is going to hurt you because investors don't know how many cockroaches you still have in your bag," Khemka wrote.

The use of one-time sales to meet revenue targets is a critical component of the government's overall investigation of Qwest.

In a separate civil lawsuit, federal regulators have said Qwest falsely reported one-time sales as recurring revenue between April 1999 and March 2002, which allowed the company to improperly report approximately \$3 billion in revenue to help acquire U S West. Qwest later restated about \$2.2 billion in revenue.

For example, one-time sales of capacity on Qwest's fiber-optic network accounted for 39 percent of revenue growth in the first quarter, prosecutors have said.

Based in Denver, Qwest is the primary telephone service provider in 14 mostly Western states.

Nacchio, 57, is charged with 42 counts of insider trading. Each count carries a penalty of up to 10 years in prison and a \$1 million fine.

Prosecutors maintain Nacchio kept issuing optimistic advisories to investors and analysts while dumping his stock.

The defense says Nacchio had to exercise stock options under terms of his contract but was optimistic about the company's future because he anticipated lucrative contracts with clandestine government agencies.

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## Defense To Advise Whether Nacchio Will Testify

**Lawyers: Nacchio Optimistic Of Qwest's Future**

POSTED: 6:43 am MDT April 7, 2007  
UPDATED: 6:48 am MDT April 7, 2007

**DENVER** -- A judge has given attorneys for Joe Nacchio until Saturday evening to tell prosecutors whether the former Qwest CEO will testify in his insider trading trial.

It's not clear whether their decision will be made public Saturday, officials said.

Nacchio is accused of selling \$101 million worth of stock in 2001, based on internal, nonpublic warnings that Qwest was at financial risk and might not meet revenue targets.

Defense lawyers said Nacchio was more optimistic about Qwest's future and didn't rely on inside information when he sold the stock.

Denver-based Qwest is the primary telephone service provider in 14 Midwestern and Western states.

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## Deadline Passes, Unclear If Nacchio Will Testify

(AP) DENVER Defense lawyers for former Qwest CEO Joe Nacchio will continue presenting their case Monday morning in Denver federal court.

Neither side was saying whether Nacchio himself would testify.

The judge gave him until 5 p.m. Saturday to let prosecution know his intentions.

Nacchio is accused of dumping \$101 million of Qwest stock when he learned the company was in financial difficulty.

Defense lawyers said Nacchio sold the stock legally, believing at the time that the company was in good financial shape.

Last week Qwest founder Philip Anschutz testified that Nacchio wanted to leave the company to spend more time with his son after an attempted suicide.

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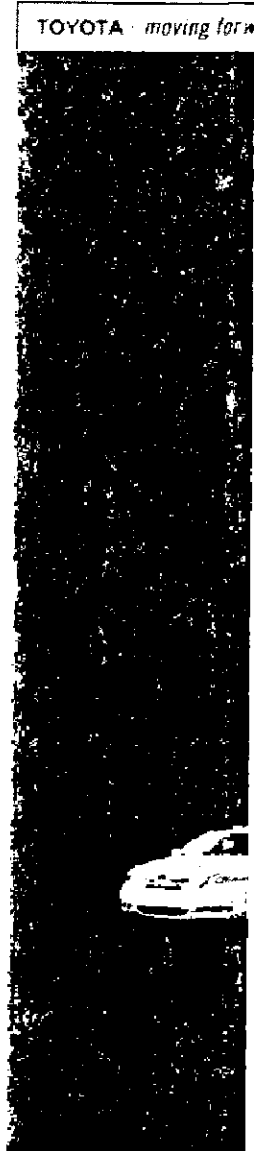


Joe Nacchio (File)

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### Courtroom Waits To See If Nacchio Testifies

**Nacchio Trial Delayed By Question About Juror**

**Former Qwest CEO Charged With 42 Counts Of Insider Trading**

**Contact reporter Rick Sallinger at [rsallinger@cbs.com](mailto:rsallinger@cbs.com)**



Rick Sallinger  
Reporting

(CBS4) DENVER The trial of former Qwest CEO Joe Nacchio was briefly recessed Monday morning after resuming. S remained about whether Nacchio would testify in his own defense as testimony continued after the short recess.

The defense called Daniel Fischel to the witness stand after the break. He works for a consulting firm in Chicago an of law and business with Northwestern University and the University of Chicago.

Fischel was called as an expert witness expected to testify about Nacchio's stock trades.

Before the recess, Judge Edward Nottingham said juror No. 5 reported that last week she was in an elevator with a press who had a conversation with her. The trial was stopped briefly so the judge and lawyers could discuss the iss matter in the judge's chamber.

Nottingham didn't say anything about the juror but told spectators in the courtroom after the questioning that it wc

idea if people just let jurors get on the elevators alone so nothing inadvertent is said. He said he wasn't suggesting improper happened.

U.S. Attorney Troy Eid was in the courtroom Monday morning to watch the proceedings.

The defense was supposed to let prosecutors know over the weekend if Nacchio would testify. Neither side revealed publicly. Nacchio and his attorneys declined to comment Monday morning as they entered the courtroom.

Prosecutors have alleged Nacchio sold stock in early 2001 after learning the company was at financial risk and could be a target.

Defense lawyers said Nacchio sold the stock legally and believed at the time that the company was in good financial shape.

Each of the 42 insider trading counts against Nacchio carries a penalty of up to 10 years in prison and a \$1 million fine.

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Joe Nacchio (file)

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# cbs4denver.com: Defense Rests, Nacchio Testify



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### Defense Rests, Nacchio Will Not Testify

Nacchio Trial Delayed By Question About Juror

Former Qwest CEO Charged With 42 Counts Of Insider Trading

Contact reporter Rick Sallinger at [rsallinger@cbs.com](mailto:rsallinger@cbs.com)



Rick Sallinger  
Reporting

(AP) DENVER Defense attorneys rested their case in Joe Nacchio's \$101 million insider trading trial Monday of Qwest Communications to testify or mentioning top-secret government contracts.

The case could go to the jury by Tuesday evening after prosecutors call one additional witness to testify and document that they allege Nacchio backdated. It is scheduled to resume Tuesday afternoon.

In all, defense attorneys spent two days calling three witnesses in Nacchio's defense.

Qwest founder Phil Anschutz and a Roman Catholic priest had testified that Nacchio wanted to resign from the company, while a college professor testified Monday about Nacchio's pattern of stock sales.

Asked after trial recessed for the day why the defense rested, Stern replied: "If it ain't broke, you do

Nacchio, 57, is accused of selling stock in a series of transactions in the first five months of 2001 after managers that the company may have trouble meeting financial projections without relying heavily on

Defense attorneys have maintained the sales were legal because Nacchio was more optimistic about to exercise some stock options before they expired.

Before the trial, they also said Nacchio was alone among Qwest executives who knew about lucrative could receive which would help its bottom line but no witnesses were called to describe them.

Stern made his decision to rest the case after U.S. District Judge Edward Nottingham agreed to allow recall financial analyst David Weinstein to tell jurors more about an allegation that Nacchio backdated shares.

The document is a memo that Weinstein wrote after he had a conversation with a Qwest attorney in commitment to sell stock in early January 2001.

Stern tried to object to the decision, but Nottingham cut him short, noting that he gave defense attorneys their direct case.

"You are not going to play that game with me," he told Stern. "You are not going to play that game. evidence."

Each of the 42 insider trading counts against Nacchio carries a penalty of up to 10 years in prison and

Earlier Tuesday, defense witness Daniel Fischel, an author and Northwestern University professor, testified that Nacchio sold 11.2 percent of eligible stock options in the first quarter of 2001 and 22.8 percent of eligible options in the

That compared with 14.6 percent in the third quarter of 2000 and 14.5 percent in the fourth quarter

Fischel's testimony was designed to counter the prosecution's contention that Nacchio accelerated his financial picture at Qwest. His calculations excluded so-called growth shares that Nacchio sold on Jan

Fischel told jurors that the defense paid him \$25,000, or his going rate of \$1,000 an hour, for research

Last week, Anschutz testified Nacchio was ready to resign in January 2001 so he could remain in Nevada. Sons attempted suicide. The Rev. Giles Hayes, a Roman Catholic abbot in Morristown, N.J., testified that

Nacchio after his son, David, attempted suicide.

Prosecutors have alleged a document that committed Nacchio to selling stock was backdated after Nacchio's worsening financial condition. At issue are two stock sales Nacchio completed on Jan. 2 and Jan. 3, 2001, valued at a little more than \$14 million.

They say Nacchio signed the document they say was created Dec. 13, although it is dated Nov. 3. Defense attorneys deny the allegation.

Nottingham told prosecutors Monday they could recall Weinstein, a financial analyst who handled Nacchio's sale of the document.

Weinstein previously testified that he and Nacchio discussed investment strategies in late 2000 for a sale of the company due to receive in early 2001. He said Nacchio did not mention signing the sale commitment document until he told Weinstein on Dec. 9 that he was signing the document.

The criminal case against Nacchio stems from a long government investigation into an accounting scandal involving a primary telephone service provider in 14 mostly Western states.

Federal regulators have said Qwest falsely reported fiber-optic capacity sales as recurring instead of one-time sales in February and March 2002. The practice allowed Qwest to improperly report about \$3 billion in revenue, which was later restated as U S West Inc., regulators have alleged. Qwest later restated about \$2.2 billion in revenue.

The Securities and Exchange Commission has filed a civil fraud suit that is still pending against Nacchio, alleging they orchestrated a financial fraud that led to the scandal.

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*"Clearly the defense thinks they are ahead and they don't need to run the risks ; testify."*

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Joe Nacchio (file)

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## cbs4denver.com: Closing Arguments Begin In Nacchio Trial

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Apr 10, 2007 8:27 pm US/Mountain

## Closing Arguments Begin In Nacchio Trial

### Former Qwest CEO Charged With 42 Counts Of Insider Trading

Contact reporter Rick Sallinger at [rsallinger@cbs.com](mailto:rsallinger@cbs.com)



Rick Sallinger ([http://cbs4denver.com/bios/local\\_bio\\_053104148](http://cbs4denver.com/bios/local_bio_053104148))  
Reporting

*(CBS4/AP) DENVER* The insider trading trial of former Qwest Communications chief Joe Nacchio has recessed. Prosecutors and defense attorneys spent Tuesday afternoon hammering home their cases for jurors during closing arguments.

Prosecutor Colleen Conry led off closing arguments with a billboard on a screen in front of the jury. The billboard read, "Joe Nacchio had a choice: tell investors what he knew, or don't sell the stock."

"You don't tell, you can't sell, it's that simple," Conry told the jury.

Conry said Nacchio chose to withhold critical information about Qwest from investors while he dumped stock.

"I think that the crucial issue is going to be is what did Mr. Nacchio know and when did he know it," securities attorney Herrick Lidstone said. "And tie that to the trading timeline."

Defense attorney Herbert Stern said Nacchio believed in the company and sold his stock legally.

"Joe Nacchio has not been proven to be guilty and he is not guilty," Stern said to the jury.

He said the information Nacchio had privy to was for the internal budget targets, not public information withheld from investors.

The jury will return Wednesday morning so attorneys can wrap up their arguments. The judge then will give the jurors some legal instructions before deliberations can begin.

The 57-year-old Nacchio is accused of selling \$101 million worth of stock in 2001 based on inside knowledge that Qwest was at financial risk and may not meet revenue targets.

Defense lawyers say Nacchio believed Qwest would get hundreds of millions of dollars worth of classified government contracts that made him more optimistic about the future of Qwest.

Each of the 42 counts against him carries a penalty of up to ten years in prison and a million dollar fine.

Denver-based Qwest Communications International Incorporated is the primary telephone service provider in 14 mostly Midwestern and Western states.

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*"I think that the crucial issue is going to be is what did Mr. Nacchio know and when did he know it."*



Joe Nacchio (File)

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# cbs4denver.com: Judge Has Options For Nacchio Is Fined



## Top News

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## Judge Has Options For Money If Nacchio

### Good Question: If Joe Nacchio Were Found Guilty And Fined, Where Would



Alan Gionet  
Reporting

(CBS4) DENVER "If Joe Nacchio were found guilty and fined, where would the money go?" There's a viewer as we answer your questions this week.

Basically it starts with the judge's order. If there were a guilty verdict or plea deal, the judge has the restitution. Fines aren't likely to directly benefit any of the retirees or stockholders who say they were

Denver attorney Rick Kornfeld is a former federal prosecutor and has been involved in cases involving

"A fine is basically part of the punishment," Kornfeld said.

That money would go right back to the federal government. It goes into what Uncle Sam calls the general fund - your taxpayer dollars and is used for things the federal government pays for - waging war, social pro

Then there's restitution. If the verdict were guilty, then the judge may order Nacchio to pay restitution to a court administrator who would oversee the distribution of money back to Qwest investors. The restitution comes from the Securities and Exchange Commission. In 2002 the "Federal Account for Investor Restitution," was

"FAIR" as it is known, is likely to be used in the deal between the government and former Qwest chief judge still has to approve that deal, but the government and Szeliga's defense have worked out an account worth \$577,052 to the SEC. The SEC will then use the FAIR account to pay people affected by her actions as

Kornfeld said getting the money, if there is a guilty verdict, and an order for restitution could be difficult.

"The key is finding it," Kornfeld said. "I think they find it more often than not. I mean, one never knows. They find it, generally, from my law enforcement days, the feds are good at locating money."

Kornfeld said the federal government has a lot of latitude in claiming what are termed, "ill-gotten gains" to be seen. The government has not frozen any of his assets and in court it was revealed that he's trying to protect his wife.

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**Jury Expected To Get The Case Wednesday Afternoon**

**Former Qwest CEO Charged With 42 Counts Of Insider Trading**

**Contact reporter Rick Sallinger at [rsallinger@cbs.com](mailto:rsallinger@cbs.com)**



Rick Sallinger ([http://cbs4denver.com/bios/local\\_bio\\_053104148](http://cbs4denver.com/bios/local_bio_053104148)) Reporting

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Wednesday, prosecutor Cliff Stricklen told the jury, "Don't convict him because he's a rich man, convict him because he's guilty."

Marge Riggs, a Qwest retiree, watched the trial.

"A lot of people lost a lot of money," Riggs said. "They put all their savings into stock and when it went down, they lost a lot of money."

Riggs said she blamed Joe Nacchio for the loss of money.

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Joe Nacchio (file)

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Jury Expected To Get The Case Wednesday Afternoon

Former Qwest CEO Charged With 42 Counts Of Insider Trading

Contact reporter Rick Sallinger at [rsallinger@cbs.com](mailto:rsallinger@cbs.com)



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Joe Nacchio (file)

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# cbs4denver.com: Jury Starts Deliberation Trial



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© Apr 12, 2007 10:10 am US/Mountain

### Jury Starts Deliberations In Nacchio Trial

Former Qwest CEO Charged With 42 Counts Of Insider Trading

Contact reporter Rick Sallinger at [rsallinger@cbs.com](mailto:rsallinger@cbs.com)



Rick Sallinger  
Reporting

(CBS4/AP) DENVER Jury deliberations started Thursday morning in the insider trading trial of former Nacchio.

Nacchio, 57, is accused of illegally dumping stock in the first five months of 2001 when he knew the didn't tell investors.

Defense attorneys said Nacchio believed in the company's future and that he sold the stock legally under contract.

Jurors spent most of Tuesday afternoon and Wednesday listening to closing arguments from both sides.

They returned Thursday morning to hear instructions before deliberations started just after 10 a.m.

A United Airlines pilot was elected as foreman of the jury.

They sent out several questions. One was regarding smoking, one requesting an exhibit list and anot

The judge said deliberations will go on Friday regardless of the weather.

Each of the 42 counts against Nacchio carries a penalty of up to 10 years in prison and a \$1 million fi

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Joe Nacchio (file)

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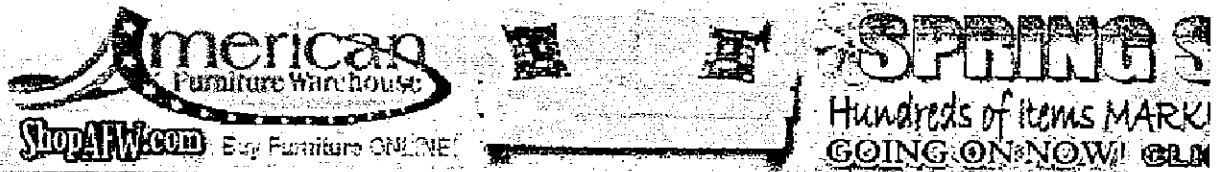
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# cbs4denver.com: After Deliberating, Nacchio Jury Excused For Day

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## Top News

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# After Deliberating, Nacchio Jury Excused For Day

Former Qwest CEO Charged With 42 Counts Of Insider Trading

Contact reporter Rick Sallinger at [rsallinger@cbs.com](mailto:rsallinger@cbs.com)



Rick Sallinger  
Reporting

(CBS4/AP) DENVER After taking the weekend off, jurors returned to federal court in Denver Monday morning for third day of deliberations in the insider trading trial of former Qwest Communications chief executive Joe Nacchio.

The eight men and four women deliberated all day Monday while attorneys for both sides remained close by in case questions arose. No decisions were made and judge excused them for the day.

Nacchio is charged with 42 counts of insider trading for \$101 million in stock sales between January and May in 2005.

Prosecutors allege Nacchio knew Denver-based Qwest could be at financial risk but didn't tell the public, investor shareholders. Each count carries a penalty of up to ten years in prison and a \$1 million dollar.

Defense attorneys say Nacchio believed Qwest would succeed.

The jury will return again Tuesday.

Prepared for cbs4denver.com by Matthew J. Buettner, Web Producer.

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Joe Nacchio (File)

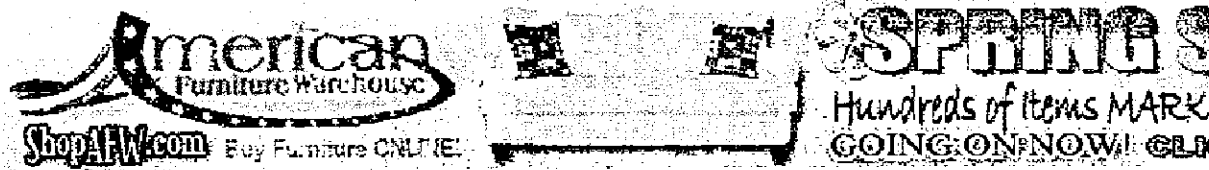
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## Judge Rereads Instructions To Nacchio Jury

### Former Qwest CEO Charged With 42 Counts Of Insider Trading

Contact reporter Rick Sallinger at [rsallinger@cbs.com](mailto:rsallinger@cbs.com)



Rick Sallinger  
Reporting

*(CBS4) DENVER* The jury in the trial of former Qwest Communications CEO Joe Nacchio passed a note to the judge Tuesday morning on the fourth day of deliberations in the insider trading trial.

Judge Edward Nottingham reread the jury instructions after getting a question about the definition of a term. He said he couldn't give out piecemeal instructions and that jurors would have to hear the whole list of instructions again.

The jurors have had no questions for the judge since last Thursday when they began their work in the case.

Nacchio is accused of illegally selling 2.5 million shares for \$101 million in 2001 when he was aware that the Denver-based company could be at financial risk but didn't tell the public.

Each of the 42 counts against Nacchio carries a penalty of up to 10 years in prison and a \$1 million fine.

Defense attorneys said Nacchio believed Qwest would succeed.

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Joe Nacchio (file)

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## Nacchio jury starts fifth day of deliberations

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By SANDY SHORE | Associated Press

April 18, 2007

DENVER (AP) \_ Jurors began their fifth day of deliberations Wednesday in the insider trading trial of Joe Nacchio, a former head of Qwest Communications International Inc.

The 12 jurors arrived shortly before 9 a.m. and immediately went to work in a closed room on the 10th floor of the federal courthouse. The group, some of whom have financial or accounting experience, has chosen an airline pilot as its foreman.

Nacchio, his wife, Anne Esker, and son Michael have been waiting at a downtown hotel, walking to the courthouse when needed.

Nacchio is accused of illegally selling 2.5 million Qwest shares for \$101 million from January to May 2001. Each of the 42 counts carries a penalty of up to 10 years in prison and a \$1 million fine.

Prosecutors contend Nacchio, 57, knew Denver-based Qwest faced financial risk but didn't tell the public as he dumped the stock. The nonpublic information they cite was that Qwest was using large amounts of one-time sales to help meet revenue targets.

Defense attorneys say Nacchio had to sell the stock under his employment contract and that he was optimistic about the company's future.

On Tuesday, U.S. District Judge Edward Nottingham reread instructions to jurors after they asked him for a "precise definition" of "material information."

In the context of corporate financial reporting, "material information" refers to information that will have an effect on the company's stock price when it's released. Executives may not legally use such information as a basis for stock trades before it is made public.

Nacchio's case is the most recent in a series pursued by the government after an investigation of a Qwest accounting scandal following Qwest's 2000 acquisition of U S West Inc.

The Securities and Exchange Commission has said Qwest falsely reported fiber-optic capacity sales as recurring instead of one-time revenue between April 1999 and March 2002. Prosecutors say that paved the way for the U S West merger; Qwest ultimately was forced to restate \$2.2 billion in revenue.

The SEC has a pending civil fraud lawsuit against Nacchio and other former Qwest executives.

Qwest Communications is the primary telephone service provider in 14 Midwestern and Western states.

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### Nacchio Jury Finishes 5th Day Of Deliberations

Former Qwest CEO Charged With 42 Counts Of Insider Trading

Contact reporter Rick Sallinger at [rsallinger@cbs.com](mailto:rsallinger@cbs.com)



Rick Sallinger  
Reporting

(CBS4/AP) DENVER A federal jury in Denver has finished its fifth day of deliberations Wednesday in the trial of former Qwest Communications chief executive Joe Nacchio without a verdict.

The 12 jurors arrived shortly before 9 a.m. and immediately went to work in a closed room on the top floor of the federal courthouse.

The jurors must decide if Nacchio had material non-public information and used it to trade the stock. Nacchio is the jury's foreman.

"Typically insider trading cases can be very difficult to prove," said Steven Martin, a business professor at the University of Colorado. "This case, specifically against Joe Nacchio, while not easy by any stretch, is a forward case."

Even before the jury went out those watching this trial figured it would be a long deliberation.

"I believe it's going to take some time to make a decision," said Kevin O'Brien, a member of the Colorado Bar Association.

Denver. "There are so many facts, sometimes in disagreement among the parties. It's going to take of that."

The Enron case of Ken Lay and Jeff Skilling took six day to find them guilty, and it took 21 days for a Richard Scrushy.

U.S. District Judge Edward Nottingham reread instructions to jurors Tuesday after they asked him for information." Nottingham said it was improper for him to read only a phrase or a single instruction, s over all of the instructions again.

Nacchio is facing 42 counts of insider trading in connection with a \$101 million stock sale in 2001.

Qwest is the primary telephone service provider in 14 Midwestern and Western states.

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*"There are so many facts, sometimes in disagreement among the parties. It's go time to sift through all of that."*

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Joe Nacchio (File)

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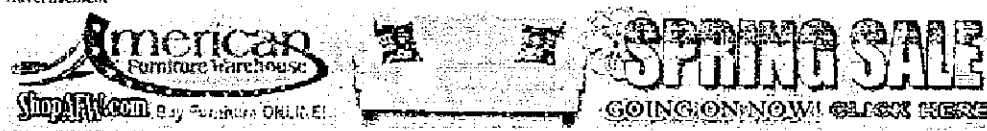
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## Nacchio Guilty On Some Counts Of Insider Trading

Contact reporter Rick Sallinger at [rsallinger@cbs.com](mailto:rsallinger@cbs.com)

▬ Poll: Do you agree with the guilty verdict against Joe Nacchio?

By Sandy Shore, AP Business Writer



Rick Sallinger  
Reporting

(AP) DENVER Joe Nacchio, a former AT&T executive tapped to transform Qwest Communications into a major telecommunications competitor, was convicted of 19 of 42 insider trading charges Thursday after one-time top executives described his relentless drive to meet revenue projections without revealing financial risks.

The eight men and four women deliberated six days before returning the verdict, concluding on 19 counts that the former Qwest chief executive illegally sold stock in the first five months of 2001 when he knew the Denver-based company faced financial challenges and relied heavily on one-time sales to meet revenue targets.

U.S. District Judge Joe Nottingham set a July 19 sentencing date for Nacchio, who is free on \$2 million bond. Nacchio's wife and son broke into sobs as the verdict was read.

Nacchio, 57, was accused of selling \$101 million worth of stock over a five-month period in early 2001 based on inside information that Qwest faced financial risks.

"If you want a chance to make a lot of money that's fine," assistant U.S. attorney Cliff Stricklin said in closing arguments. "But you have to do it in a fair way. It's not fair to take your money off the table when you know of risk that other people don't know about."

With the decision, the jury turned away Nacchio's claim that he believed in the company's future despite concerns voiced by business managers.

The criminal case stemmed from a years-long government investigation into an accounting scandal at Qwest, a Denver-based primary telephone service provider in 14 mostly Western states.

Federal regulators have said Qwest falsely reported fiber-optic capacity sales as recurring instead of one-time revenue between April 1999 and March 2002. The practice allowed Qwest to improperly report about \$3 billion in revenue, which helped pave the way for its acquisition of former Baby Bell U S West Inc., regulators have alleged. Qwest later restated about \$2.2 billion in revenue.

"The term convicted felon Joe Nacchio has a very nice ring to it," U.S. Attorney Troy Eid said. "And he is a convicted felon. The jury has

spoken and make no mistake my friends, this is an overwhelming determination of guilt."

A civil fraud suit is still pending against Nacchio, former President Afshin Mohbdebli and other one-time executives, alleging they orchestrated a financial fraud that led to the scandal.

The SEC is seeking repayment and civil penalties, with the amounts to be determined at trial. One defendant has reached a settlement with regulators. Two defendants, former finance chief Robin Szeliga and Gregory Casey, a former vice president of Qwest's wholesale business unit, have settled with the SEC.

Prosecutors wove a circumstantial case based on the testimony of those who worked closely with Nacchio -- a former company president, a one-time chief financial officer, an investor relations executive and business unit managers.

Most testified either under grants of immunity in exchange for cooperation or after pleading guilty to a crime, saying they repeatedly warned Nacchio Qwest would not meet aggressive financial targets for 2001 without relying heavily on revenue from one-time sales. And that revenue came from a waning market.

Despite their warnings, Nacchio refused to lower forecasts and did not tell the public how much one-time revenue was included in earnings, the witnesses said.

Nacchio's attorneys narrowly tailored their defense, arguing the ambitious entrepreneur believed Qwest would succeed despite the warnings. They said Nacchio had to sell the shares under terms of his employment contract, particularly 350,000 growth shares sold in early January 2001 for a little more than \$14 million, because the company chose to give him shares instead of cash he was owed.

Before trial, defense attorneys argued Nacchio, through his membership on two government panels, was alone among Qwest executives who knew the company could receive lucrative contracts from clandestine government agencies. At trial, attorneys didn't present any direct evidence about classified information.

Nacchio's defense presented just three witnesses. Qwest founder Phil Anschutz and a Roman Catholic abbot testified Nacchio wanted to resign in January 2001 to remain in New Jersey with his family after a son attempted suicide.

The third witness was Daniel Fischel, an author and Northwestern University professor, whose testimony about Nacchio's pattern of stock sales was designed to counter prosecutors' argument that Nacchio accelerated his trades ahead of the worsening financial picture at Qwest. His calculations excluded so-called growth shares that Nacchio sold on Jan. 2 and Jan. 3, 2001.

A former AT&T executive, Nacchio was recruited to transform Qwest from a construction company building a fiber optic network into a telecommunications leader at a heady time for the industry when companies were scrambling for lucrative telephone and Internet customers.

Nacchio oversaw Qwest's entry into public trading and its 2000 takeover of U S West Inc., fostering a new, more aggressive atmosphere where the priorities were not just meeting but exceeding financial targets and following a so-called "golden rule" of never saying anything to cause the stock price to drop, witnesses testified.

Nacchio forecast revenue growth of 15 percent to 17 percent in 2001 and set internal projections even higher, pushing business unit managers to exceed them.

As the telecommunications market began to soften amid aggressive competition in late 2000, competitors expressed concern that there was not enough business to fill the growing number of fiber optic networks carrying voice and data traffic.

In the fall of 2000, Qwest managers warned Nacchio the 2001 financial targets were unrealistic and unattainable. But the CEO refused to reduce internal numbers or lower the forecast, they said. One manager called a final meeting on Qwest's 2001 budget a "sign in blood" session where division managers signed up to meet the targets.

A key point in the prosecution's case was Nacchio's decision to sign an irrevocable commitment in late 2000 to sell the so-called growth shares.

Prosecutors said he decided to sell after hearing worsening news from business managers in early December 2000 but backdated the sales document to Nov. 3, 2000. Defense attorneys insisted that Nacchio gave oral instructions committing to sell the shares in November and that the document was drafted at a later time.

The remaining transactions involved vested stock options that Nacchio exercised and sold from Jan. 26, 2001, to May 29, 2001. About one-third of the overall amount was sold from April 24 to April 27, just weeks after the company issued its first-quarter results.

As Qwest's competitors reduced their financial forecasts late in 2000 because of the weakening market, Nacchio continued to reaffirm his company's guidance.

Two analysts testified that they repeatedly asked how Qwest was meeting its numbers but didn't learn until August 2001 how heavily the company relied on one-time sales to achieve them.

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Joe Nacchio (File)

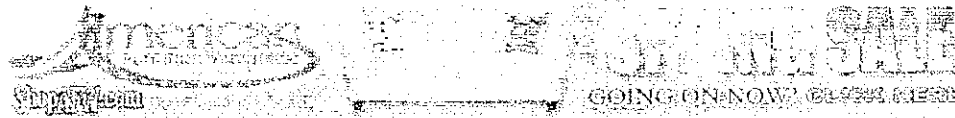
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## Report: Nacchio Jury Had Early Doubts

(AP) DENVER It wasn't a spread sheet that brought down former Qwest CEO Joe Nacchio, more an improvised three-foot-wide band of paper.

Jurors traced developments in the case on the paper. Words in red suggested suspicion. Yellow indicated innocence and black was raw information, The Denver Post reported.

There was a lot of red, juror Anna Garduno told the newspaper.

Deliberations had begun one week earlier with one juror she didn't name absolutely certain Nacchio was guilty. "Fry him; I don't need to hear anything," said the juror said, according to Garduno. Most remained unsure.

Foreman Carroll Danforth Weatherly, a United Airlines pilot, led the jurors methodically through the evidence and testimony in an atmosphere that remained cordial.

Weatherly "kept everything on track, kept it on an even keel," juror Doug Stoneman said.

One date stood out - April 24, 2001 -- the day Nacchio had told Wall Street he saw no reason to back away from double-digit growth projections. His executives had warned him repeatedly that those numbers were unrealistic.

"I went in thinking he was innocent," Garduno said. But it was clear Nacchio knew by the time he spoke in the April earnings call that Qwest was headed for trouble, and then he sold his stock.

By Thursday morning all but three jurors were persuaded of his guilt on insider trader charges. Through the day two more were convinced, and then the last holdout, crying, joined them.

Garduno knew what was coming, and her heart sank as Joe Nacchio welcomed an initial string of "not guilty" verdicts with a smile.

"You could see Mr. Nacchio smiling and his son and wife crying, and I felt horrible because they thought he was off the hook, and that was going to change," she said.

The guilty verdicts began to roll in at count 24 in the insider-trading case against Nacchio and didn't stop until U.S. District Judge Edward Nottingham had read verdicts for all 42 insider-trading counts.

Nacchio, who did not testify, will appeal. Sentencing is set for July 27.

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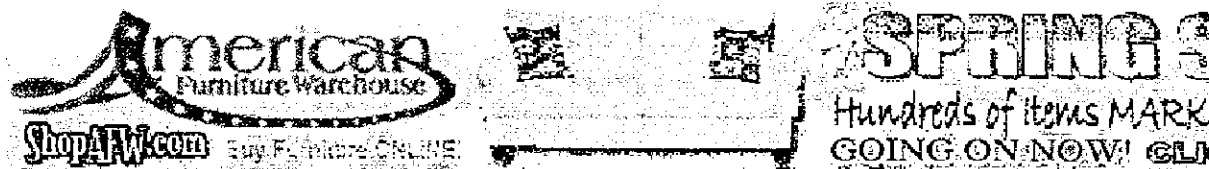
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## Nacchio Seeks New Trial

By Sandy Shore, AP Business Writer

(AP) DENVER Former Qwest CEO Joe Nacchio's attorneys asked a federal judge Thursday for more details on how prospective jury pool was selected, saying they need the information to prepare a motion seeking a new trial on insider trading conviction.

In a separate motion filed Thursday, prosecutors argued that Nacchio should be required to forfeit \$52 million, the gross amount he earned on 19 stock sales in April and May of 2001 that a jury last week concluded were illegal.

The motions, filed in anticipation of Nacchio's sentencing in late July, came on the same day a judge ruled a civil fraud case against Nacchio should proceed.

Defense attorneys began laying the groundwork for the new trial motion by asking for permission to see response questionnaires sent early this year to 1,000 prospective jurors. The jury that decided Nacchio's case consisted of eight men and four women selected from 78 candidates called to court.

Defense attorney Herbert Stern noted U.S. District Judge Edward Nottingham has never explained how the 78 prospects were selected and suggested an error may have occurred.

Nottingham ordered the questionnaire to be sent to potential jurors so those with a known bias -- such as Qwest employees or shareholders -- could be excluded. He did not share the jurors' responses with attorneys and decided on his own whether to excuse any of the 1,000 candidates.

Although he initially agreed to send a second questionnaire seeking additional details, Nottingham later said those questions should be asked during the selection process when an individual's demeanor could be judged in person.

During a March 1 meeting in his chambers, Nottingham said he thought jurors with distant relatives who owned a business likely would be able to serve, Stern said.

Stern objected to the single questionnaire and the automatic exclusion of prospective jurors who had a prior employment, business or financial relationship with either Qwest or U S West Inc.

"The court's pretrial method for winnowing the venire from 1,000 to 78 may be error that warrants the grant of a new trial," Stern wrote. "It will not be until we have an opportunity to analyze the court's pretrial actions that we be able to determine whether error was committed."

Prosecutors charged Nacchio with 42 counts of insider trading, alleging he based \$101 million in stock sales from January to May 2001 on inside information that Denver-based Qwest Communications International Inc. was at financial risk but didn't tell investors.

The jury acquitted Nacchio of 23 counts but convicted him of 19 for sales occurring after Qwest's first-quarter results were posted but the company did not reveal how much of its revenue was based on one-time sales.

In the government's filing, prosecutor Kevin Traskos argued that the law requires Nacchio to forfeit \$52 million earned on the April and May 2001 sales. "Because this information is derived directly from the trade confirmation the United States expects that this calculation of the amount of the gross proceeds should be undisputed," he wrote.

The case grew out of a multibillion-dollar scandal that forced Qwest, a primary telephone service provider in 14 states, to restate \$2.2 billion of revenue.

Federal regulators have said Qwest falsely reported fiber-optic capacity sales as recurring instead of one-time revenue between April 1999 and March 2002, a practice that allowed it to improperly report about \$3 billion in revenue.

Nottingham has set Nacchio's sentencing July 27. Each count carries a sentence of up to 10 years in prison and a million fine, but legal analysts have speculated he will get a prison term of eight years to 10 years.

Nacchio also is one of several former Qwest executives named in a pending lawsuit filed by the Securities and

Exchange Commission accusing them of orchestrating a financial fraud at Qwest.

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Joe Nacchio (file)

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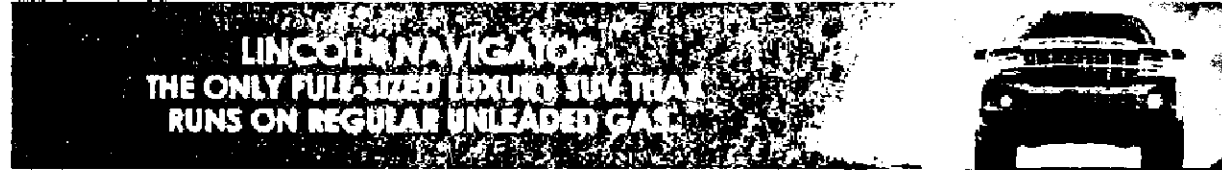
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## Prosecutors: Nacchio Has No

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## Business

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### Prosecutors: Nacchio Has No Right To Questionnaire

(AP) DENVER Prosecutors on Thursday argued that Joe Nacchio doesn't have a legal right to view responses to 1,000 prospective jurors, a request the former Qwest CEO said is part of his move to seek a new trial on his ins

Attorneys for Nacchio said U.S. District Judge Edward Nottingham has never explained how the jury pool thousand down to 78 and suggested an error may have occurred.

Prosecutors said the law governing juries allows the inspection of jury lists, materials used by the court's comm juror questionnaires used by the trial judge.

Nottingham ordered the questionnaire to be sent to potential jurors so those with a known bias -- such shareholders -- could be excluded. He did not share the jurors' responses with attorneys and decided on his own any of the 1,000 candidates.

Although he initially agreed to send a second questionnaire seeking additional details, Nottingham later said the asked during the selection process when an individual's demeanor could be judged in person.



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isted of eight men and four women selected from 78 candidates called

\_\_\_\_\_ prosecutors acknowledged that it was up to Nottingham to decide whether to give the questionnaires. Prosecutors asked that if Nottingham decided to give the questionnaires to Nacchio's attorneys, the information be redacted and the questionnaires be numbered so they'll indicate who was called in to court.

The motion is at least the second filed since Nacchio's conviction April 19. Earlier, prosecutors argued that Nacchio forfeit \$52 million, the gross amount he earned on 19 stock sales in April and May of 2001 that the jury convicted

Prosecutors charged Nacchio with 42 counts of insider trading, alleging he based \$101 million in stock sales from 2000 on inside information that Denver-based Qwest Communications International Inc. was at financial risk but didn't

The jury acquitted Nacchio of 23 counts but convicted him of 19 for sales occurring after Qwest's first public offering. The company did not reveal how much of its revenue was based on one-time sales.

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