

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

<b>Securities and Exchange Commission,</b>	:	
<b>Plaintiff,</b>	:	
<b>v.</b>	:	<b>Civil Action No.</b>
<b>Mark A. Schumacher,</b>	:	
<b>Defendant.</b>	:	

**COMPLAINT**

Plaintiff the Securities and Exchange Commission (“Commission”), for its complaint, alleges as follows:

**A. Summary**

1. This matter involves the conduct of Mark A. Schumacher in connection with a scheme by Qwest Communications International, Inc. (“Qwest”) to inflate revenue and earnings artificially.
2. The Commission brings this action pursuant to the authority conferred upon it by Section 21 of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78u] to impose a civil money penalty to address Defendant Schumacher's conduct.
3. The Commission seeks an order requiring Defendant Schumacher to pay forty thousand dollars (\$40,000.00) in civil money penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

**B. Jurisdiction and Venue**

4. This Court has jurisdiction over this action pursuant to Sections 21(d) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and 78aa]. Venue lies in this Court pursuant to Section 27 of the Exchange Act.

5. Certain of the transactions, acts, practices and courses of business alleged herein occurred within this judicial district. Moreover, Defendant Schumacher resides in this district.

**C. The Defendant**

6. Defendant Schumacher, age 46, of Littleton, Colorado, was controller of Qwest Communications International, Inc. ("Qwest") from January 2001 through December 2001. Prior to working for Qwest, Schumacher worked for 17 years in various positions at US West, Inc., which was acquired by Qwest in 2000. Schumacher is licensed as a certified public accountant in Colorado.

**D. Related Party**

7. Qwest, based in Denver, Colorado, is one of the largest telecommunications and Internet services companies in the United States. Qwest's common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act, and the company is obligated to file reports on Forms 10-K and 10-Q. Qwest's common stock is traded on the New York Stock Exchange.

**E. Factual Allegations**

**Improper Accounting for Infeasible Rights of Use ("IRU") Transactions**

8. During 2001 and earlier, Qwest emphasized in Commission filings and in public statements its projected revenues and earnings growth, and issued aggressive growth and revenue targets to the investment community. In turn, Qwest's most senior executives, including Schumacher's superiors, placed extraordinary pressure throughout the company to meet or exceed the publicly announced revenue targets. Qwest could not, however, meet its targets through recurring revenue generating transactions. The lack of recurring revenue created a gap between Qwest's publicly stated revenue targets and actual revenue.

9. To make up for the shortfall between Qwest's actual revenue and its projected revenue targets, Qwest relied on one-time sales of portions of its network in the form of IRUs. An IRU is an irrevocable right to use specific fiber optic-cable or fiber capacity for a specified time period. Qwest accounted for IRUs as sales-type leases, and recognized revenue immediately upon purported delivery and acceptance of the capacity.

10. Dating back to at least 1999, Qwest's accounting department did not maintain proper accounting policies, procedures, and practices relating to IRU revenue recognition generally and immediate revenue recognition on IRUs in particular. In fact, Qwest's IRU revenue recognition policy failed to meet several GAAP criteria and Qwest improperly recognized approximately \$1 billion in IRU revenue during fiscal year 2001. Upon assuming the position of controller in January 2001, Schumacher inherited the flawed system of accounting procedures and controls relating to IRUs. After becoming aware of errors and inconsistencies in Qwest's IRU revenue recognition policies and procedures, Schumacher took several significant steps to correct Qwest's IRU accounting practices and policies. Despite these steps, Schumacher was unsuccessful in ensuring that Qwest's IRU accounting met the immediate revenue recognition criteria under GAAP, and in confirming that Qwest had an adequate system of internal controls and procedures concerning its IRU accounting.

11. In 2001, Schumacher learned information that suggested Qwest's upfront revenue recognition on IRUs was not in compliance with GAAP. He learned that Qwest allowed customers to return the assets purchased in exchange for different assets, and he became concerned with Qwest's ability to pass title, the fair market value of IRUs, the failure to identify IRU inventory, and the business purpose of IRU sales. Had Schumacher independently examined Qwest's established accounting policies and practices for IRUs after learning of these

red flags, he would have determined that Qwest's revenue recognition on IRU sales was not in accordance with GAAP.

12. Qwest's improper accounting for IRUs resulted in material misstatements of the company's revenues, income and earnings per share in, among others, Qwest's quarterly reports filed with the Commission on Form 10-Q for the quarters ended March 31, June 30 and September 30, 2001 and earnings releases attached to Qwest's current reports on Form 8-K filed with the Commission for the same quarters in 2001. Schumacher, along with others, was responsible for the content of the annual and quarterly reports and he reviewed them prior to their filing with the Commission. He also reviewed the earnings releases filed with the Commission in Qwest's Forms 8-K for the same periods and reviewed the Forms 8-K before they were filed with the Commission.

#### **Qwest's Improper Disclosures Relating to Dex**

13. In an attempt to show revenue and earnings growth every quarter sufficient to meet publicly announced revenue projections, Qwest accelerated the recognition of revenue from Dex for 2000 by publishing one directory in December 2000 rather than in January 2001, as originally scheduled. This allowed Qwest to recognize an additional \$28 million of Dex revenue in 2000. Qwest's Form 10-K for the year ended December 31, 2000 stated that Dex's revenue in 2000 increased by nearly \$100 million over the previous year due to "an increase in the number of directories published." This statement was misleading because it failed to inform investors that more than one-quarter of the revenue increase was due to the fact that one directory had been published twice in 2000 or that the schedule change would produce a commensurate decline in Dex revenue for the first quarter of 2001.

14. Schumacher should have known that Qwest's disclosures concerning its Dex revenue were misleading. He reviewed Qwest's 2000 Form 10-K before it was filed with the Commission. At the same time, he should have known that the directory schedule change accounted for more than one-quarter of the \$100 million revenue increase mentioned in that report.

15. Additionally, in the first three quarters of 2001, Qwest shortened the lives of some directories, thereby allowing it to recognize revenue in earlier quarters, and lengthened the lives of other directories from twelve months to thirteen months, thereby allowing the company to bill each advertiser for one additional month of advertising fees. This allowed Qwest to recognize an additional \$42 million in revenue in 2001. Qwest's Forms 10-Q for the quarters ended March 31, June 30 and September 30, 2001 stated that period-over-period changes in Dex's revenue were attributable to changes in the "mix" and/or "lengths" of directories published. These statements were misleading, because they failed to inform investors that Qwest had manipulated its directory publishing schedule to meet financial targets.

16. Schumacher reviewed Qwest's Form 10-K for the fiscal year ended December 31, 2000 and Forms 10-Q for the quarters ended March 31, June 30 and September 30, 2001, and should have known that the disclosures concerning the Dex revenue were misleading.

**FIRST CLAIM FOR RELIEF**  
**(Section 13(a) of the Exchange Act and**  
**Exchange Act Rules 12b-20, 13a-1, 13a-11 and 13a-13)**

17. Plaintiff repeats and realleges paragraphs 1 through 16 above.

18. Qwest violated Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11 and 240.13a-13]. By engaging in the conduct described above, Defendant Schumacher aided and abetted Qwest pursuant to Section 20(e) of the Exchange Act [15 U.S.C. §78t(e)].

**SECOND CLAIM FOR RELIEF**  
**(Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act)**

19. Plaintiff repeats and realleges paragraphs 1 through 18 above.

20. Qwest violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and (B)]. By engaging in the conduct described above, Schumacher aided and abetted Qwest pursuant to Section 20(e) of the Exchange Act [15 U.S.C. §78t(e)].

**THIRD CLAIM FOR RELIEF**  
**(Exchange Act Rule 13b2-1)**

21. Plaintiff repeats and realleges paragraphs 1 through 20 above.

22. Qwest's books, records and accounts were subject to Section 13(b)(2)(A) of the Exchange Act. Defendant Schumacher, directly or indirectly, falsified or caused to be falsified such books, records or accounts.

23. Defendant Schumacher violated Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

**FOURTH CLAIM FOR RELIEF**  
**(Section 13(b)(5) of the Exchange Act)**

24. Plaintiff repeats and realleges paragraphs 1 through 23 above.

25. Defendant Schumacher knowingly circumvented a system of internal accounting controls, knowingly failed to implement a system of internal accounting controls, and knowingly falsified books, records, or accounts described in Section 13(b)(2) of the Exchange Act.

26. Defendant Schumacher violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)].

**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court order Defendant Schumacher to pay a civil money penalty in the amount of \$40,000 under Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

Dated: \_\_\_\_\_, 2005.

Respectfully submitted,

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