

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

Civil Action No. 04-B-2042 (OES)

**NELSON B. PHELPS,**

Plaintiff,

v.

**QWEST EMPLOYEES BENEFIT  
COMMITTEE**

Defendant.

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**DEFENDANT'S INITIAL DISCLOSURE STATEMENT**

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Defendant Qwest Employees Benefit Committee ("Qwest"), by and through undersigned counsel, hereby serves upon Plaintiff the following initial disclosure statement. These disclosures are based upon information reasonably available at this time and represent a good faith effort to meet required disclosure obligations.

Defendant's disclosures are made without waiving: (1) the right to object on the grounds of competency, privilege, relevancy and materiality, hearsay or any other proper ground, to the use of any information, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other action; and (2) the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these disclosures.

1. Individuals likely to have discoverable information Qwest may use to support its claims or defenses:

Defendant is disclosing the addresses and telephone numbers for employees of Defendant or other Qwest entities. Any attempted communications with these employees would constitute a prohibited communication with a party represented by counsel.

Notwithstanding the provision of the addresses and telephone numbers below, Defendant objects to, and will vigorously oppose, any attempted communications with the following persons outside the presence of Defendant's counsel.

- a. Kimberly G. Walker, CFA  
President  
Qwest Asset Management Company  
1005 17<sup>th</sup> Street, Suite 250  
Denver, CO 80202  
(303) 382-6002
- b. Karen Frame  
Director - Compliance  
Qwest Asset Management Company  
1005 17<sup>th</sup> Street, Suite 250  
Denver, CO 80202  
(303) 382-6035

2. Documents Qwest may use to support its claims or defenses:

Qwest has consistently maintained that there are no documents which have been wrongfully withheld from Plaintiff pursuant to ERISA § 1024(b)(4). In the interests of resolving this matter, however, Qwest has agreed to produce the following document "log" that identifies documents in place at the time, or recently after, Plaintiff made his request and which are related to Plaintiff's general areas of inquiry (i.e., a particular plan investment). While these documents may be related to Plaintiff's general areas of inquiry, that does not mean the documents fall within the ambit of the § 1024(b)(4) disclosure obligation. In fact, Qwest specifically asserts that the following documents are

not required to be produced pursuant to § 1024(b)(4). The titles and descriptions of these documents are provided solely to demonstrate that no documents have been wrongfully withheld and the mere fact they have been disclosed is not an admission or evidence of any kind that such documents should be produced under § 1024(b)(4).

### DOCUMENT LOG

Date	Title	Adopted By	Description
8.20.04	Proxy Voting Policy	Proxy Policy Committee of Mellon Financial Corporation, the parent corporation of the Mellon Trust of New England, NA, Trustee of the Qwest Pension Fund <sup>1</sup> ; adopted by investment advisory subsidiaries of Mellon Financial Corporation and used to vote proxies for all clients	Outlines some general philosophies regarding corporate governance, discusses record keeping and disclosure obligations, and sets forth the general process by which written proxy voting guidelines are adopted and utilized.
3.05.02	Qwest Asset Management Committee Derivatives Policy for Qwest Trusts	Investment Committee of Qwest Communications International, Inc.	Addresses the use of one type of financial instrument, derivative instruments, within all Qwest employee benefit trusts.
Varying dates	Generic title: portfolio specific investment guidelines (these are multiple, separate documents)	Qwest Asset Management Company and each individual Investment Manager	Each individual Investment Manager managing a portfolio or account that is part of the Qwest Pension Trust is subject to investment guidelines that relate solely to that specific Investment Manager and a specific portfolio.

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<sup>1</sup> It is the policy of Qwest Asset Management not to vote proxies and, instead, to delegate that responsibility to external managers and, for internally managed assets, to the Trustee. The policy listed here is that of the Trustee. In addition to Mellon Financial Corporation's policy, independent investment managers hired by Qwest Asset Management to manage U.S. and International Equities held by the Qwest Pension Fund would have similar policies and/or written guidelines. As with the Mellon Financial Corporation policy and guidelines, these are not policies or guidelines that are authored, adopted or utilized by any Qwest entity.

3. Computation of Damages:

Defendant is not seeking damages in this action except to the extent that attorney's fees might be available to it as a prevailing party.

4. Insurance Agreements:

The Company is investigating whether any applicable agreements exist:

DATED THIS 10<sup>th</sup> DAY OF FEBRUARY, 2005:

Respectfully submitted,

BAIRD & KIOVSKY, LLC

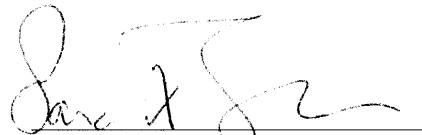


BY: Elizabeth I. Kiovsky, Esq.  
Beth Doherty Quinn, Esq.  
*Attorneys for Defendants*  
2036 E. 17<sup>th</sup> Avenue  
Denver, CO 80206  
Telephone No.: 303-813-4500

**CERTIFICATE OF MAILING**

I hereby certify that on the 18<sup>th</sup> day of February, 2005, I placed a true and accurate copy of the foregoing *Defendant's Initial Disclosures* in the United States Mail, postage prepaid, and addressed to the following:

Curtis L. Kennedy, Esq.  
8405 E. Princeton Ave.  
Denver, Colorado 80237  
303-770-0440  
Attorney for Plaintiff

  
Of Baird & Kiovsky, LLC