IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. ___________________________

Securities and Exchange Commission,

Plaintiff,

v.

Michael Felicissimo,

Defendant.

COMPLAINT

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

I. SUMMARY

1) From January 2000 through September 30, 2002, Qwest Communications International, Inc. ("Qwest") improperly recognized $112 million in revenue from its wholly owned subsidiary, Qwest Wireless, LLC ("Wireless"), based on errors Wireless's accounted for revenue. After learning of those errors and their material effect on Qwest’s publicly reported revenue, Wireless chief financial officer ("CFO") Michael Felicissimo refused to restate or otherwise correct the improperly recognized revenue, ordered his staff not to make corrections, concealed the revenue overstatements, and instructed others to do likewise. By so doing, Felicissimo caused Qwest's financial statements and Commission filings to be materially false and misleading.

2) Felicissimo violated Section 17(a) of the Securities Act of 1933 ("Securities Act")[15 U.S.C. §77q], Section 13(b)(5) of the Securities Exchange Act of 1934 ("Exchange Act"),

and Exchange Act Rule 13b2-1 [15 U.S.C. §78m(b)(5) and 17 C.F.R. 240.13b2-1], violated or alternatively, aided and abetted violations of Exchange Act Section 10(b) and Rule 10b-5 [15 U.S.C. §78j and Rule 17 C.F.R. 240.10b-5], and aided and abetted violations of Exchange Act Sections 13(a) and 13(b)(2) and Rules 13a-1, 13a-11, and 13a-13 [15 U.S.C. §78m(a), §78m(b)(2), and Rules 17 C.F.R. 240.13a-1, 13a-11, and 13a-13], and unless restrained and enjoined will in the future violate or aid and abet violations of such provisions.

3) The Commission brings this action pursuant to the authority conferred upon it by Securities Act Section 20(b) [15 U.S.C. §77t(b)] and Exchange Act Sections 21(d) and (e) [15 U.S.C. §78u(d) and (e)]seeking an order permanently restraining and enjoining Felicissimo from each of the statutory violations set out above pursuant to Securities Act Section 20(b) and Exchange Act Section 21(e) [15 U.S.C. §78u(e)] and granting other relief.

4) The Commission seeks an order requiring Felicissimo to pay third tier civil penalties, including post-judgment interest, pursuant to Securities Act Section 20(d) [15 U.S.C. 77t(d) and Exchange Act Section 21(d) [15 U.S.C. §78u(d)].

5) The Commission seeks an order pursuant to the equitable authority of the court requiring Felicissimo to disgorge all ill-gotten gains including all benefits derived from his employment at Qwest such as salary, bonuses, stock, and other remuneration and pre-judgment and post-judgment interest thereon.

6) The Commission seeks an order pursuant to Exchange Act Section 21(d)(2) [15 U.S.C. § 78u(d)], as amended by Section 305 of the Sarbanes-Oxley Act, or pursuant to the

equitable authority of the court permanently barring Felicissimo from being an officer or director of any public company.

II. JURISDICTION AND VENUE

7) This Court has jurisdiction over this action pursuant to Securities Act Section 22(a) [15 U.S.C. §77v(a)] and Exchange Act Sections 21(e) and 27. [15 U.S.C. §78u(e) and §78aa] Venue lies in this Court pursuant to Securities Act Section 22(a) and Exchange Act Section 27.

8) In connection with the transactions, acts, practices, and courses of business described in this Complaint, Felicissimo, directly and indirectly, has made use of the means or instrumentalities of interstate commerce, of the mails, and/or of the means and instruments of transportation or communication in interstate commerce.

9) Certain of the transactions, acts, practices and courses of business constituting the violations of law alleged herein occurred within this district. Moreover, Felicissimo resides in this district.

III. DEFENDANT

10) **Michael Felicissimo**, a resident of Lone Tree, Colorado, held the title of vice president of Finance at Qwest from June 2000 through June 2002. From July 2002 to September 2002, Felicissimo held the title of vice president of Wireless Markets at Qwest. In both capacities, he functioned as Wireless’s CFO and was responsible for reporting Wireless’s financial information to Qwest’s accounting organization. Felicissimo knew that Wireless's financial results were incorporated into Qwest's public financial statements filed with the Commission. Felicissimo was fired by Qwest in September 2002 when it learned of conduct in connection with the excess revenue in Wireless's financial results.

IV. RELATED PARTY

11) **Qwest Communications International, Inc.**, is based in Denver, Colorado, and provides telephone, broadband, and other services, including wireless telephone services through its wholly owned subsidiary, Wireless. 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.

V. FACTUAL ALLEGATIONS

12) Following its merger with US West in June 2000, Qwest promoted itself to analysts and the investing public as a progressive, new generation technology company not to be compared with the stodgy, old-style telephone company which had been US West. In earnings releases, Qwest emphasized its projected revenues, earnings growth and EBITDA (Earnings before interest, taxes, depreciation, and amortization), and specifically emphasized revenue growth from Wireless. Qwest also consistently touted in earnings releases its string of consecutive quarters in which it met or exceeded analyst expectations, which ended in third quarter 2001 after 17 consecutive quarters. Qwest met analyst expectations by placing extraordinary pressure on all of its business units, including Wireless, to meet or exceed unrealistic revenue targets.

13) On several occasions between April 2001 and July 2002, Wireless's accounting group staff identified errors in the manner in which Wireless accounted for revenue from the sale of mobile phone products and services. These revenue recognition errors caused Wireless and hence Qwest to overstate revenue by about $57 million in 2000, $46 million in 2001, and $9 million during the first two quarters of 2002.

14) The first accounting error involved failure to adjust recorded revenue downward to reflect returned telephones and repairs to telephones. This error resulted in an overstatements of revenue by about $7 million in 2000 and $4 million in 2001.

15) The second error resulted from booking of revenue from sales of telephone accessories that in fact, had been given to customers for free as part of sales inducements. This error resulted in an overstatements of revenue by about $8 million in 2000 and $18 million in 2001.

16) The third error was caused by the fact that Wireless did not reduce price plan revenue to account for credits given to customers for both service interruptions and cancellations pursuant to money back guarantees and other adjustments. This error resulted in an overstatements of revenue by about $42 million in 2000, $24 million in 2001 and $9 million through the first two quarters of 2002.

17) Over the course of several months between September 2001 and July 2002, the Wireless accounting group staff also repeatedly estimated the amount by which Qwest had overstated revenue based on the errors and, on numerous occasions, informed Felicissimo of its conclusions.

18) The Wireless accounting group staff made corrections so that the erroneous revenue would not continue to be recorded. Further, the accounting group staff told Felicissimo about the fact that each error had caused Wireless to report inflated revenue to Qwest.

19) Rather than telling the president of Wireless or other higher level Qwest executives about the overstatements, Felicissimo concealed, and directed others to conceal, the revenue overstatements. For example:

a. After learning in September or October 2001 that his staff estimated that one of the errors caused a $13-17 million revenue overstatements during 2001, Felicissimo told Wireless's controller that he would not reverse the overbooked revenue because doing so would adversely affect Wireless's year-end financial results. He also instructed Wireless's controller and another employee to refrain from disclosing the problem to others;

b. After learning in January 2002 that Wireless's accounting group estimated that Qwest had overbooked an aggregate of over $30 million of revenue during 2000 and the first nine months of 2001 based on two of the errors, Felicissimo told Wireless's controller multiple times that Qwest would be unwilling to "reopen its 2001 books;"

c. After viewing a document in about July 2002 showing that the accounting group estimated that Qwest overstated revenue by about $20 million in 2000, $33 million in 2001, and $9 million through the first two quarters of 2002 based on all of the errors, Felicissimo told Wireless's controller that he would not inform mangers at Qwest about the overstatements. Moreover, he instructed Wireless's controller to refrain from doing so and told the controller to "bury" the document;

d. When asked during a conference call among high level Qwest finance executives in about August 2002 to explain a decline in one of Wireless's revenue measures, which was caused by correction of one of the errors, Felicissimo lied about the reason for the decline; and

e. In August or September 2002, Felicissimo told Wireless's controller that he intended to leave the company and asked her to refrain from telling anyone about the Wireless revenue overstatements until after his resignation so he could negotiate a better severance package.

20) Felicissimo was motivated to conceal the revenue overstatements from his superiors in order to respond to pressure from them to meet Wireless's revenue goals and projections.

21) Based on the accounting errors identified above, Qwest overstated Wireless revenue by about $57 million in 2000, $46 million in 2001, and $9 million during the first two quarters of 2002. On a quarterly basis, Qwest overstated Wireless revenue by the following amounts (in millions): 1st Quarter 2000: $28.68; 2nd Quarter 2000: $8.04; 3rd Quarter 2000: $8.48; 4th Quarter 2000: $11.24; 1st Quarter 2001: $11.90; 2nd Quarter 2001: $14.72; 3rd Quarter 2001: $6.49; 4th Quarter 2001: $12.77; 1st Quarter 2002: $4.86; 2nd Quarter 2002: $4.43.

22) Between January 2000 and September 2002, Qwest made materially false and misleading statements about its revenue in current, quarterly, and annual reports filed with the Commission, as well as quarterly earnings releases and offering materials.

23) Qwest touted the strength of Wireless' revenue in eight of nine quarterly earnings releases between mid-2000 and mid-2002, each of which reported Wireless's quarterly revenue and period-over-period growth rate. Further, the Wireless overstatements allowed Qwest to meet the consensus expectations of analysts regarding Qwest's revenue for 2000 and each quarter during 2000, as well as three of four quarters during 2001. The overstatements allowed Qwest to show net income of $13 million rather than a net loss of $4 million for first quarter 2000, and to reduce its reported net loss for 2000 by 30 percent from $115 million to $81 million.

24) Qwest made those materially false and misleading statements because Felicissimo concealed the Wireless revenue overstatements from Qwest.

25) Qwest filed financial statements with the SEC in a Form 10-K annual report in October 2003 that corrected, among other things, the erroneously recognized Wireless revenue and restated the relevant financial statements.

FIRST CLAIM FOR RELIEF
Securities Act Section 17(a)(1) [15 U.S.C. § 77q(a)(1)]

26) The Commission repeats and realleges paragraphs 1 through 25 above.

27) Felicissimo directly and indirectly, with scienter, in the offer or sale of securities, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, has employed a device, scheme, or artifice to defraud.

28) Felicissimo violated and unless restrained and enjoined will violate Securities Act Section 17(a)(1).

SECOND CLAIM FOR RELIEF
Securities Act Sections 17(a)(2) and 17(a)(3) [15 U.S.C. § 77q(a)(2) and (3)]

29) The Commission repeats and realleges paragraphs 1 through 25 above.

30) Felicissimo directly and indirectly, in the offer or sale of securities, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails, has obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in transactions, practices, or courses of business which have been or are operating as a fraud or deceit upon the purchasers of Qwest securities.

31) Felicissimo violated and unless restrained and enjoined will violate Securities Act Section 17(a)(2) and (3).

THIRD CLAIM FOR RELIEF
Exchange Act Section 10(b) [15 U.S.C. § 78j(b)]
and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5]

32) The Commission repeats and realleges paragraphs 1 through 25 above.

33) Felicissimo, directly or indirectly, with scienter, violated Exchange Act Section 10(b) and Rule 10b-5, or alternatively, aided and abetted Qwest's violations in that, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce, the mails, or any facility of a national securities exchange, he employed devices, schemes, or artifices to defraud; made untrue statements of material fact; or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

34) Felicissimo violated or alternatively aided and abetted violations of, and unless restrained and enjoined will violate Exchange Act Section 10(b) and Rule 10b-5.

FOURTH CLAIM FOR RELIEF
Exchange Act Section 13(a) [15 U.S.C. § 78m(a)] and Exchange Act Rules 13a-1, 13a-11, and 13a-13 [17 C.F.R. §§ 240.13a-1, 240.13a-11, and 240.13a-13]

35) The Commission repeats and realleges paragraphs 1 through 25 above.

36) Section 13(a) of the Exchange Act and the rules thereunder require every issuer of a security registered pursuant to Section 12 of the Exchange Act to file annual and quarterly reports. This requirement embodies the requirement that the reports filed be true and accurate. Qwest's quarterly and annual reports were materially false and

misleading and it therefore violated, and Felicissimo aided and abetted violations of Exchange Act Section 13(a) and Rules 13a-1, 13a-11, and 13a-13.

37) Felicissimo aided and abetted and unless restrained and enjoined will aid and abet violations of Exchange Act Section 13(a) and Rules 13a-1, 13a-11, and 13a-13.

FIFTH CLAIM FOR RELIEF
Exchange Act Section 13(b)(2)(A) [15 U.S.C. § 78m(b)(2)(A)]

38) The Commission repeats and realleges paragraphs 1 through 25 above.

39) Section 13(b)(2)(A) of the Exchange Act requires that issuers such as Qwest make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets of the issuer. As a result of the accounting errors, Qwest violated and Felicissimo aided and abetted violations of Section 13(b)(2)(A).

40) Felicissimo aided and abetted and unless restrained and enjoined will aid and abet violations of Exchange Act Section 13(b)(2)(A).

SIXTH CLAIM FOR RELIEF
Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1]

41) The Commission repeats and realleges paragraphs 1 through 25 above.

42) Exchange Act Rule 13b2-1 prohibits any person from directly or indirectly, falsifying or causing to be falsified, an issuer's books and records. Qwest's books and records were falsified as a result of the revenue recognition errors and Felicissimo thereby violated Rule 13b2-1.

43) Felicissimo violated and unless restrained and enjoined will violate Exchange Act Rule 13b2-1.

SEVENTH CLAIM FOR RELIEF
Exchange Act Section 13(b)(5) [15 U.S.C. § 78m(b)(5)]

44) The Commission repeats and realleges paragraphs 1 through 25 above.

45) Felicissimo knowingly circumvented a system of internal accounting controls and knowingly failed to implement a system of internal accounting controls, and knowingly falsified books, records, or accounts described in Exchange Act Section 13(b)(2) at an issuer of securities, namely Qwest.

46) Felicissimo violated and unless restrained and enjoined will violate Exchange Act Section 13(b)(5).

PRAYER FOR RELIEF

The Commission respectfully requests that this Court:

1) Find that Felicissimo committed the violations alleged;

2) Enter an Injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, permanently restraining and enjoining Felicissimo from violating, or aiding and abetting violations, directly or indirectly, the provisions of law and rules alleged in this complaint;

3) Order Felicissimo to disgorge all ill-gotten gains received and any benefits in any form derived from the illegal conduct alleged in this Complaint, plus pre-judgment and post-judgment interest;

4) Order Felicissimo to pay civil penalties, including post-judgment interest, pursuant to Securities Act Section 20(d) [15 U.S.C. § 77t(d)] and Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)] in an amount to be determined by the Court;

5) Order pursuant to its equitable powers and Exchange Act Section 21(d)(2) [15 U.S.C § 78u(d)(2)] as amended by Section 305 of the Sarbanes-Oxley Act that

Felicissimo be permanently barred from serving as an officer or director of any public company; and

6) Order such other and further relief as the Commission may show itself entitled.

Dated: _______________, 2004

Respectfully submitted,

/s/________________________________	/s/________________________________
Robert M. Fusfeld	Polly A. Atkinson
(303) 844-1080	(303) 844-1046
Colorado Bar # 13097	Colorado Bar #18703

Attorneys for the U.S. Securities and Exchange Commission
1801 California Street, Suite 1500
Denver, Colorado 80202
Switchboard – (303) 844-1000
Facsimile – (303) 844-1068