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Ex-Qwest Accountant Discusses Auditors

April 12, 2006 (Associated Press) — A former Qwest accountant charged with fraud said Monday that he relied on advice from outside auditors after federal regulators refused to provide accounting guidance about booking revenue from fiber-optic network swaps.

James Kozlowski also denied the allegations against him in the March 2005 lawsuit filed by the Securities and Exchange Commission.

The method for booking revenue from swaps of capacity on fiber-optic networks is at the heart of the SEC lawsuit against Kozlowski and other former Qwest Communications International Inc. executives. The SEC has said Qwest booked the transactions as upfront revenue while falsely claiming to investors that the income was recurring.

In a brief filed in U.S. District Court, Kozlowski's attorney, Kevin D. Evans, said the accountant and others in the industry asked the SEC in 1999 for guidance but the SEC refused to say whether booking the revenue upfront complied with accounting principles.

"For the SEC now to sue Mr. Kozlowski claiming that he and other accountants at Qwest got it wrong and, in effect, attempt to irreparably damage if not destroy this young man's career, is inexcusable," Evans wrote.

SEC attorney Robert Fusfeld did not immediately return a telephone call seeking comment.

Kozlowski participated in a number of fiber-optic network capacity swaps, referred to as IRU transactions, while he was an accountant for Qwest from April 1998 to September 2000.

During that time, he received advice from two outside independent auditors, KPMG and Arthur Andersen, which said the transactions could qualify for upfront revenue recognition, Evans said.

The SEC has said Kozlowski, former Qwest CEO Joseph Nacchio and five other former executives orchestrated a financial fraud that concealed the source of billions of dollars in revenue that Qwest later was forced to restate. One defendant has settled while the case is proceeding against the others.

The SEC said the fraud at Qwest occurred between April 1999 and March 2002, allowing the company to improperly report approximately \$3 billion in revenue that facilitated its 2000 merger with the Baby Bell, U S West.

Last year, Qwest agreed to pay \$250 million to settle separate SEC charges of fraud but the deal did not cover former executives.