

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 51374 / March 15, 2005**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 2211 / March 15, 2005**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-11854**

**In the Matter of**

**Jennifer J. Tanner,**  
**f/k/a Jennifer J. Black,**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-  
DESIST PROCEEDINGS, MAKING  
FINDINGS, AND IMPOSING A CEASE-  
AND-DESIST ORDER PURSUANT TO  
SECTION 21C OF THE SECURITIES  
EXCHANGE ACT OF 1934**

**I.**

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 ("Exchange Act"), against Jennifer J. Tanner ("Tanner" or "Respondent").

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over her and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings, Making Findings, and Imposing a Cease-and-Desist Order Pursuant to Section 21C of the Securities Exchange Act of 1934 ("Order"), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds<sup>1</sup> that:

#### A. Respondent

Tanner, age 33, of Denver, Colorado, was a manager and later a director of finance within Qwest Communications International Inc.'s ("Qwest") technical accounting group from July 2000 to October 2002. Prior to working for Qwest, Tanner was a manager of technical accounting from October 1999 to June 2000 for US West, Inc., which was acquired by Qwest in 2000. Tanner is a certified public accountant, but her license is inactive.

#### B. Related Party

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.

#### C. Qwest's Improper Accounting for Indefeasible Rights of Use ("IRU") Transactions

1. 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 senior executives 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.

2. 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.<sup>2</sup> Qwest accounted for IRUs as sales-type leases, and recognized revenue immediately upon purported delivery and acceptance of the capacity.

3. Qwest's IRU revenue recognition policy failed to meet several GAAP criteria and Qwest improperly recognized approximately \$1 billion in IRU revenue from the first quarter 2001 through December 31, 2001. Tanner was one of Qwest's technical accountants responsible for

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<sup>1</sup> The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

<sup>2</sup> An IRU is an irrevocable right to use specific fiber optic-cable or fiber capacity for a specified time period.

reviewing and approving the application of Qwest's IRU accounting policy to Qwest's IRU sales from the first quarter 2001 through December 31, 2001.

4. For revenue recognition as a sales-type lease, GAAP requires that the earnings process be complete and the assets sold remain fixed and unchanged. In 2001, Tanner became aware that Qwest's IRU assets were not fixed and unchanged because Qwest often allowed customers to return the IRU assets purchased in exchange for different assets and redirected IRU routes to circumvent problems on Qwest's network. After becoming aware that Qwest's IRU revenue recognition policy was not in conformity with GAAP, in implementing Qwest's IRU accounting policy, Tanner did not ensure that Qwest's IRU accounting met the immediate revenue recognition criteria under GAAP, and did not confirm that Qwest had an adequate system of internal controls and procedures concerning its IRU accounting.

5. In fact, Qwest's revenue recognition on IRU sales was not in accordance with GAAP. Specifically, (i) Qwest's accounting was fundamentally flawed because Qwest never had specific IRU assets identified for sale as required by GAAP; (ii) immediate revenue recognition on IRU sales was improper because Qwest never established that title transferred and did not transfer the usual risks and rewards of ownership to the buyer; and (iii) Qwest's immediate recognition of revenue on IRU sales was not in accordance with GAAP because Qwest improperly treated its IRU sales as having several separate revenue elements and did not have sufficient evidence supporting the fair values of the individual elements.

6. 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 2001 Form 10-K, Qwest's Forms 10-Q for the quarters ended March 31, June 30, and September 30, 2001 and March 31, 2002, and earnings releases attached to Qwest's current reports on Form 8-K filed with the Commission for the same periods in 2001 and 2002.

#### **D. Qwest's Improper Accounting and Disclosure for Sales Commission Plans**

1. Qwest changed from a policy of expensing sales commissions when incurred to a more aggressive policy in the first quarter 2001 of deferring sales commissions over the term of the sales contracts. Qwest, however, did not meet the GAAP requirements to defer sales commissions. Specifically, Qwest did not have procedures in place to track and amortize capitalized commissions over the actual contractual life as required by GAAP.

2. Tanner was one of the technical accountants responsible for opining on the appropriateness of this change and failed to take the steps necessary to determine whether Qwest met the requirements for deferral. For example, Tanner did not read Qwest's commission plans, and did not determine whether Qwest had the requisite tracking processes and could identify the specific contract to which the commission was linked. Moreover, because Tanner did not learn that Qwest did not have procedures to track commissions and link the commissions to a specific contract, she did not advise Qwest's auditors to that effect.

3. Qwest's inappropriate deferral of sales commissions resulted in a \$158 million overstatement of pretax income and adjusted EBITDA in 2001. Specifically, Qwest's improper

capitalization of sales commissions resulted in material overstatements of the company's income and earnings per share in its Form 10-K for the year ended December 31, 2001; Forms 10-Q for the quarters ended March 31, June 30 and September 30, 2001 and March 31, 2002; and earnings releases attached to Forms 8-K relating to the same periods.

4. Tanner also did not determine that the change from expensing to deferring sales commissions was a change in accounting principle that should have been disclosed under GAAP and the required disclosure was therefore not included in Qwest's Form 10-K for the year ended December 31, 2001 and Forms 10-Q for the quarters ended March 31, 2001, June 20, 2001, September 30, 2001, and March 31, 2002.

5. Because Qwest improperly capitalized sales commission expenses, its books, records and accounts did not, in reasonable detail, accurately and fairly reflect its transactions and dispositions of assets. In addition, Qwest failed to implement internal accounting controls relating to its sales commission accounts which were sufficient to provide reasonable assurances that these accounts were accurately stated in conformity with generally accepted accounting principles. In 2001, Tanner was responsible in part for implementing sufficient internal controls relating to Qwest's accounting for sales commission expenses.

## **E. Violations**

1. Section 13(a) of the Exchange Act and Exchange Act Rules 13a-1, 13a-11 and 13a-13 require all issuers with securities registered under Section 12 of the Exchange Act to file annual, current and quarterly reports with the Commission on Forms 10-K, 8-K and 10-Q, respectively. These reporting requirements necessarily include the requirement that the issuer supply accurate information. In addition, Rule 12b-20 requires that reports contain such further material information as may be necessary to make the required statements, in light of the circumstances under which they were made, not misleading. As a result of the conduct described above, Tanner was a cause of Qwest's violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder with respect to Qwest's Form 10-K for the year ended December 31, 2001; Forms 10-Q for the quarters ended March 31, 2001, June 30, 2001, September 30, 2001, and March 31, 2002; and Forms 8-K to which Qwest's earnings releases for these quarters were attached.

2. As a result of the conduct described above, Tanner was a cause of Qwest's violations of Section 13(b)(2)(A) of the Exchange Act, which requires reporting companies to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets, and Section 13(b)(2)(B), which requires reporting companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles.

3. Also as a result of the conduct described above, Tanner violated Section 13(b)(5) of the Exchange Act, which prohibits persons from knowingly circumventing or knowingly failing to implement a system of internal accounting controls, or knowingly falsifying any book, record or account; and Exchange Act Rule 13b2-1, which prohibits persons from directly or indirectly

falsifying or causing to be falsified any book, record, or account subject to Section 13(b)(2)(A) of the Exchange Act.

#### **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Tanner's Offer.

Accordingly, it is hereby ORDERED that Respondent Tanner cease and desist from committing or causing any violations and any future violations of Section 13(b)(5) of the Exchange Act and Rule 13b2-1 thereunder, and from causing any violations and any future violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder.

By the Commission.

Jonathan G. Katz  
Secretary