From: Phil Rose
To: Director - FASB

Subject: File Reference No. 1860-100

Date: Wednesday, October 20, 2010 5:14:40 PM

Dear Sir,

I am writing to you today to express my deep concern regarding your proposed change in disclosure rules for multiemployer pension plans. I understand the need in some cases that users of financial statements have to better assess the potential risks of employers that participate in multiemployer plans. And in some cases I can see that disclosure would help to better assess the risk of these obligations. However, to make a blanket change that applies to ALL multiemployer plans would create dire financial distress on thousands of small businesses with little or no basis at all.

Allow me to explain. Our company is a union Electrical Contracting Company that participates in a defined benefit multiemployer pension plan for our employees. We are very proud that our employees will be able to retire after serving in our physically-demanding industry during their adult lives. In the late 1970's and early '80's our plan, and several others throughout the country, developed a significant surplus. Government regulators stepped in and insisted the funds be distributed or face financial penalty. Unfortunately, twenty years later when the markets took big hiccups in '02 and again in '09, plans that were deemed "healthy" over night became underfunded. The underfunded designation did not mean that they had run out of money, but that they were now predicted to run out of money in the distant future.

This brings me to my first point. When people examine a financial statement, they are looking at statements of fact based on things that actually happened in the past. However, if you require the disclosure of pension plan health status, you are mixing the black and white nature of financial reporting with the very murky actuarial science of PREDICTING the financial needs of a defined—benefit pension plan years or even decades into the future. And since the very complex act of assessing the health of a pension plan is very expensive, it is usually completed annually, meaning that for most of the year, the assessment is severely out of date. It would not be unusual to have information more than a year out-of-date reported on a financial statement. The two do NOT belong together.

Secondly, to assume that all employers that participate in a multiemployer plan are liable for any underfunded conditions upon withdrawal is an incorrect assumption. In our case, our pension plan is administered by union and management representatives. If an employer withdraws from the pension plan, he is not charged for his portion of the underfunded liability UNLESS he decides to become reincarnate as a nonunion contractor. Therefore, we have <u>conditional</u> as opposed to unconditional withdrawal liability.

I would estimate that in over 90% or more of small contractors that have been in business for more than 10 years, the unfunded pension liability could at some period be a significant percentage as compared to the equity in the company. In some cases it could be larger. But in 99% of the contractors that go out of business, the unfunded liability condition does NOT exist, since they do

not go into business as nonunion contractors. And those that could be assessed the penalty would likely be unable to pay it. Yet, to force these companies to report this liability as if it were unconditional would force a large percentage of these companies out of business due to the inability to acquire credit and bonding, two of the life bloods in the construction industry. All for the sake of a liability that would NEVER be incurred in the vast majority of cases.

The proposed reporting changes will undoubtedly put many companies out of business for no reason. They will not die from the unfunded liability of their pension funds. They will die from the exposure of a conditional liability that will not become active in almost all cases.

While the unfunded liability condition in pension funds seemed to arrive almost overnight, it will take years to be solved. But it <u>will</u> be solved over time. Because of the mutual dependency between contractors and labor, it is in both parties interests to make the necessary changes to bring the plans into compliance. But because of the nature of collective bargaining, these changes happen incrementally and over time.

To implement these plans will begin a catastrophic cycle of doom.

- Reporting requirements would put several small and medium contractors immediately out of business due to inability to acquire bonding and credit.
- A smaller base of contractors would put even more pressure on already stressed industry plan, forcing even more contractors to lose their financing and bonding
- In the end, the last employer standing would have all the liability and responsibility to pay the pension obligation. That employer would likely be the government.

If it is deemed absolutely necessary that disclosure take place, it should only be disclosed when the expense of withdrawal liability is likely or intended to be incurred, unconditionally, in the future.

I hope you will consider my comments before proceeding with the proposed changes and invite you to contact me with any further questions.

Sincerely,

Roman Electric Co., Inc.

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