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September 9, 2010

Financial Accounting Standard Board Post Office Box 5116 Norwalk, Connecticut 06856-5116

Re: Proposed Amendments - Exposure Draft - Disclosure of Certain Loss Contingencies - Subtopic 715-80

Dear Sirs:

This firm represents the Trustees of a number of multi-employer defined benefit pension plans, almost exclusively within the construction industry.

I have had an opportunity to review your recent Exposure Draft on Contingencies (Topic 450) Disclosure of Certain Loss Contingencies and specifically proposed amendments to Subtopic 715-80 relating to multi-employer defined benefit pension plans.

It is my understanding from certified public accountants who practice in the field that the standards currently require disclosure of information in financial statements if it is "probable" or "reasonably possible" that an event has occurred or will occur, if that event will affect the financial condition of the reporting entity. Events considered "remote" do not currently require disclosure.

It is generally understood that within those rules is there is a requirement that an employer who makes a decision to withdraw from a multi-employer defined benefit pension plan or even decides to explore the possibility of withdrawing from a multi-employer defined benefit plan, must currently consider whether it is "probable" or "reasonably possible" that the withdrawal would take place in a reasonable time period. If so, then there may be certain items that would require disclosure in that employer's financial statements. In the event that the financial impact of any withdrawal is considered immaterial or non-existent, there may be no required disclosure.

Under the proposed Standard, additional wording is added and apparently language removed that would eliminate the option of not disclosing withdrawal liability from a multi-employer defined benefit pension plan, even if that probability is "remote" or not "reasonably possible". For employers who have no intention of withdrawing from a multi-employer defined benefit pension plan, such disclosures would be devastating, not only to the

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employers, but to the plan whose very future depends upon continued contributions from those employers.

This is particularly true in the construction industry where employer withdrawal by definition occurs only upon the making of a conscious decision by an employer. Unlike non-construction industry employers where sales, mergers or other corporate changes may trigger an employer withdrawal and potential employer withdrawal liability, withdrawal from a multi-employer defined benefit pension plan within the construction industry requires that the employer cease to have an obligation to contribute to the plan <u>and</u> continue to (or within the next 5 years) employ employees within the trade and territorial jurisdiction of the plan.

In the union multi-employer defined benefit pension plan world (which is virtually the entire universe of multi-employer defined benefit pension plans for construction employers) an employer must consciously decide to terminate its obligation under a union collective bargaining agreement <u>and</u> continue to (or within the next 5 years) perform bargaining unit work within the jurisdiction of the plan for the employer to be considered to be withdrawn.

Let's take, as an example, a construction industry employer who has projects under way in 20 different geographical areas. That employer may contribute to 20 different multi-employer defined benefit pension plans, even if the employer only employs one construction craft (e.g. iron workers). The new standard would apparently require disclosure of potential employer withdrawal liability for that employer for all 20 different multi-employer defined benefit pension plans, even though the employer fully expects to complete many of those projects within the near future and the employer anticipates no further work in those fund's geographical area, making withdrawal liability not only "remote," but "virtually impossible."

Likewise if an employer has a collective bargaining agreement requiring contributions to a multi-employer defined benefit pension plan and that collective bargaining agreement has 7 more years to its expiration, then again for at least the next 7 years, withdrawal liability is not only "remote," but "virtually impossible."

The proposed standard is the equivalent of requiring that a company remove from its financial statement assets, all industrial plants located in areas that have ever been threatened by hurricanes because that industrial plant could get hit by a hurricane during the current hurricane season.

In addition, employer withdrawal liability for an employer will vary dramatically from year to year. Unlike the calculation of funded percentages to measure the financial strength of most multi-employer defined benefit pension plans which are typically based upon "smoothed assets" or "actuarial value" of assets, the calculation of employer withdrawal liability is often based on the "market value" of assets, which, as we have seen over the past few years has varied dramatically.

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If you should have any questions, please feel free to contact me.

Very truly yours,

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