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December 7, 2010

By Email and Overnight Delivery

Mr. Joseph F. Stoltz
Assistant Staff Director
Audit Division
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: United Association Political Education Committee (United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada)
FEC ID No. C00012476

Dear Mr. Stoltz:

This firm is legal counsel to the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada ("United Association"). This letter is provided to you and the Commission, on behalf of the United Association and the United Association Political Education Committee (UAPEC), a separate segregated fund established by the United Association, and its Treasurer, Mr. William P. Hite. UAPEC is responding to your agency's Draft Final Audit Report accompanying your November 19, 2010 letter.

UAPEC is waiving its right to a hearing but would like to present, for the record, the following response to the Report and its findings and recommendations.

Finding 1. Excessive Contributions to Candidates and Other Political Committees

UAPEC acknowledges that excessive contributions were made as set forth in the Report. UAPEC however, takes issue with the following statement on page 5 of the report under Finding 1: "A majority of the excessive contributions were the result of UAPEC not tracking contributions made by its affiliates." UAPEC believes this statement is misleading and wishes to offer further explanation. UAPEC did have certain procedures in place, albeit not foolproof, to track contributions by affiliated committees.

Throughout the years, UAPEC has on several occasions requested its affiliates in writing to advise it of contributions they make to federal candidates and UAPEC often called or otherwise communicated with those affiliates whose PACs are organized within a state where a candidate was seeking office, prior to making a contribution to that candidate, to ascertain whether a contribution was made by the affiliate. These procedures did timely identify many contributions made by affiliates. However, neither UAPEC nor its sponsor controls these affiliates' day-to-day operations nor do either have access to their records. Therefore, identifying affiliate contributions can be a difficult and challenging process.

The Agency's Audit Staff provided useful suggestions during the audit process to enhance UAPEC's monitoring of these affiliate contributions. UAPEC has now adopted additional measures to eliminate, or at least minimize as much as reasonably possible, the likelihood that excessive contributions will be made in the future.

Please note that pursuant to its written request to candidates who received excessive contribution, on today, December 7, 2010, UAPEC received a refund of \$500 from Pete Visclosky, 2008 Congressional candidate. To date the outstanding excessive contributions that have not been refunded or properly re-designated consist of \$25,000 in contributions to six candidates. UAPEC requests that the record reflect that UAPEC has affirmatively been seeking refunds from these candidates, with many of the written requests for refunds having first been made several months prior to the audit, in late 2008 or early 2009. UAPEC respectfully requests that no further action be taken with respect to this Finding and Recommendation.

Finding 2. Failure to File Notices and Properly Disclose Independent Expenditures.

UAPEC wants to make clear that it did understand the 24-hour and 48 hour independent expenditure notice requirement but was not able to identify an earlier dissemination date. Because of the nature of the expenditure – yard signs, mini billboards, shirts, hats etc. – UAPEC was unable to know precisely when these materials are disseminated to the public. Unlike a broadcast, it is not possible for a committee to know precisely when this type of material is disseminated. The material is not typically disseminated on the date the material is received at UAPEC headquarters, the date the material is sent to the affiliates or the date the material is sent to members of the restricted class. These materials are disseminated, if at all, for public consumption on multiple unknown dates when for example, a shirt is worn in public or a yard sign is posted in a yard. We do not believe that either the Act or the Regulations issued by the FEC provide any guidance on when such material should be considered disseminated. (See e.g. Section 109.10 of the Commission's regulations which state only that the date an independent expenditure is made is "the date on which a communication is publicly distributed or otherwise publicly disseminated.")

Nonetheless, given the impossibility of identifying the dates of dissemination and given the likelihood that at least some of the material is disseminated within a notice period, UAPEC has determined that in the future it will consider the material

Ms. Joseph Stoltz. FEC Audit Division
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disseminated for purposes of reporting on the date the material is received. UAPEC believes that given the nature of the independent expenditure as set forth above and the impossibility of determining a "date of dissemination," no further action on the part of the Commission with respect to this Finding and Recommendation is warranted.

Finding 3. Failure to Properly Disclose Transfers from Affiliated Committees

As noted, UAPEC amended the applicable reports to disclose the transfers from affiliated committees on Schedule A, Line 12, Transfers from Affiliated/Other Party. It has nothing further to add with respect to this Finding other than that it believes no further action is warranted with respect to this Finding and Recommendation.

UAPEC believes it has complied with all the recommendations of the Audit Staff. For the reasons set forth above UAPEC believes that it has used its best efforts to comply with the reporting requirements of the Federal Election Campaign Act and that any errors in reporting have been inadvertent and *de minimis*. UAPEC respectfully requests that the Final Audit Report be approved by the Commission and that no enforcement action be taken.

If you need any additional information or have any questions please feel free to contact me.

Sincerely,



Francis J. Martorana

Enclosures

cc: William P. Hite
Patrick R. Perno
Rick Terven, Sr.
James R. O'Connell, Esq.