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FAX TRANSMITTAL COVER SHEET

DATE: September 22, 2008

TO: Glen Rothner **FAX NO.** (626) 577-0124

FROM: Jonathan H. Siegel **FAX NO.** (510) 452-5004
PHONE NO. (510) 452-5000

RE: Your Letter of September 17, 2008
Request for Privileged Document

Number of pages, including this one: 3

Notes:

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September 22, 2008

Via Facsimile 626-577-0124 & First Class Mail

Glen Rothner
Rothner, Segall and Greenstone
510 South Marengo Avenue
Pasadena, CA 91101

**Re: Your Letter of September 17, 2008
Request for Privileged Document**

Dear Mr. Rothner:

I have reviewed your letter of September 17, 2008 and remain unpersuaded that you have set forth any cognizable ground to invade the attorney-client privilege and demand the production of an opinion letter by counsel concerning the United Healthcare Workers and Patients Education Fund ("PEF").

Despite your assertion of "black-letter law," none of the cases which you have cited concern the circumstances herein. Without going through each one, it can be accurately summarized that in each case in which the production of the privileged document was ordered, the actual document had already been disclosed either to a third party or to opposing counsel in the litigation at issue, or the party asserting the privilege had embroiled the privileged document in the litigation by asserting an offensive legal theory or defense which necessarily invoked the privilege. Here, no such assertion has been made in any litigation of which I am aware, and you have cited no cases in which a statement such as that alleged by Mr. Rosselli outside of and before any litigation gives rise to invasion of the privilege.

Indeed, one of the cases which you cite, *Wellpoint Health Networks, Inc. v. Superior Court* (1997) 59 Cal.App.4th 110, is particularly illustrative. There, a plaintiff in a discrimination case sought a privileged document prepared by counsel for the defendant during a pre-litigation investigation of the claims. The court declined to order production of the document, and noted that it was up to the defendant to decide whether the document would necessarily become essential to the litigation by choosing to assert an affirmative defense of advice of counsel. There

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is no such affirmative defense in any of the mushrooming litigation between the International and UHW-W of which I am aware.

Finally, I protest the International's request for this document in the context of a financial audit of the UHW-W. This request has absolutely nothing to do with the accuracy of the recordkeeping of UHW-W, and the International has already been supplied with all financial transactional information concerning UHW-W and the PEF. Your request appears to me to be nothing but a political fishing expedition.

Therefore, we continue to refuse to supply the document requested.

Very truly yours,



Jonathan H. Siegel

JHS/rb

cc: Joan Emslie (via e-mail and U.S. Mail), ST UHW-W
Latika Malkani, Esq.