IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

CLAUDE J. TOMPLAIT	
VS	CIVIL NO. 5402
COMBUSTION ENGINEERING, INC., ET AL	

Answers and deposition of EARL B. HERRING, a witness for the defendant to the accompanying direct interrogatories propounded to him in the above styled and numbered cause, taken before Barbara Kurtz, a notary public in and for Harris County, Texas, at 6001 Gulf Freeway, in the City of Houston, County of Harris, State of Texas, on the 10th day of April, 1969, pursuant to the accompanying notice.

EARL B. HERRING

being duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in answer to the direct interrogatories as hereinafter indicated, deposes and says as follows:

INTERROGATORIES

1. What is your name.

A. Earl B. Herring.

2. Where do you live?

A. Route 1, Box 249 B, Pearland, Texas.

3. Are you the Business Agent of Local 22 of International Association of Heat and Frost Insulators

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and Asbestos Workers of American, AFL-CIO?

A Yes.

4. How long have you held the position of Business Agent?

A. Since January 1, 1968.

5. As Business Agent of Local Union No. 22, do you have custody or control or access to the pension and welfare fund records of Local No. 22?

A. No.

6. Does Local No. 22 have any pension or welfare records on Claude J. Tamplait, Social Security No. [redacted] who resides in Orange, Texas, for the years 1957 through 1968?

A. Yes.

7. Is it correct that the insulation contractors contribute to the pension and welfare fund, or the welfare fund, based on the hours worked by each individual employee?

A. Yes.

8. Do you have a record showing the date of each employment by each member of the union which includes the name of the employer?

A. Records show total hours over a certain period of time.

9. State when the insulation contractor employers

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first started contributing to the pension and welfare fund, or welfare fund?

A. Pension, 1958; Welfare, 1952.

10. State who has the possession and control of the pension and welfare fund records beginning with the year 1957, or the year such welfare fund began, up to the present time.

A. At the present time, John Hunter and Associates has the Pension and Welfare records, however, as Administrator of these two funds he didn't receive them until January 1, 1968. Prior to 1968 the former Administrator had access to these records.

11. If you state that you have any records of the pension and welfare fund, or welfare fund, of Local 22 of the International Association of Heat and Frost Insulators and Asbestos Workers of America, AFL-CIO, then please produce such records and give the name of each contractor-employer and the period of times that Claude J. Tomplait, Social Security No. [redacted] of Orange, Texas, worked for each such contractor-employer during the period beginning with the year 1957 through the year 1968.

A. Copy of Pension records attached.

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12. If you have stated that you do not have possession of any welfare fund records which will show the period worked by Claude J. Tomplait for each employer, then please state who does have possession of such welfare fund records.

A. Unknown.

13. Are these welfare fund records kept in the due course of business of the Union?

A. No.

14. Please state under whose care, custody and control the records are held.

A. John Hunter.

15. Are the entries made in these records made on a regular basis in the due course of the administration of the welfare fund?

A. Yes.

16. If your Union does not have the pension fund or welfare fund records which would cover Claude J. Tomplait, who resides in Orange, Texas, then please state where such pension fund or welfare fund records would be kept, whether by the International Union or some other local Union.

A. Local #112, Lake Charles, La.

17. Are the original records in such form that they could be reproduced by copying?

A. Unknown

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18. Is there a separate account in the welfare fund kept showing the contributions made for the benefit of each member of the Union?

A. No.

19. If you have a separate account or separate sheet showing the contributions made for the benefit of Claude J. Tomplait by various employers, then please have the original account identified as an exhibit and attach a photocopy of this exhibit. If you state that it is not practical to photocopy the various records showing the contributions by contractors for the account of Claude J. Tomplait and the times worked and the names of the employers, and that a separate account is not kept showing the contributions for the benefit of Claude J. Tomplait, then please read into the record a summary of the various entries made showing the name of the employer, the period worked for such employer, and the contributions to Claude J. Tomplait.

A. Not Applicable

20. Please state the basis for the employer contributions to the pension fund or welfare fund for the benefit of each employee.

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A. Under negotiated contract requiring employer to make periodic payment in behalf of employees.

Earl B. Herring

STATE OF TEXAS |
|
COUNTY OF HARRIS |

I, Barbara Kurtz, a notary public in and for Harris County, Texas, do hereby certify that the statements contained in the caption hereto are true; that the foregoing answers of the witness EARL B. HERRING were, by the said witness made before me and were sworn to and subscribed by him before me.

Given under my hand and official seal on this the 11th day of April, 1969.

Barbara Kurtz

BARBARA KURTZ,
NOTARY PUBLIC,
HARRIS COUNTY, TEXAS.

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