

January 19, 1976

Dear \_\_\_\_\_ :

This is in response to your letter to Mr. \_\_\_\_\_ in the \_\_\_\_\_ Area Office of the Labor-Management Services Administration. Your letter requested an opinion as to whether [Name], a retired former employee of \_\_\_\_\_ Inc., could be rehired by \_\_\_\_\_, Inc. without having his pension benefits suspended by the International Union.

You indicated in your letter, and in a telephone conversation with this Office, that [Name] had worked for \_\_\_\_\_, Inc. as a pressman, and that the position for which he would be rehired was an administrative position in quality control. You further indicated that the pension plan, whose benefits the \_\_\_\_\_ International Union has indicated it will suspend if [Name] is rehired, is the \_\_\_\_\_ Pension Fund. This fund is a multiemployer plan administered by the union, to which all contributions are employee contributions.

Section 203(a)(1) of the Employee Retirement Income Security Act of 1974 (ERISA) provides that an employee's rights in his accrued benefit derived from his own contributions are nonforfeitable. Since all the contributions to the plan in question were made by Mr. [Name], they are nonforfeitable. Section 203(a)(3)(B) of the ERISA, which allows suspension of pension benefits in certain cases of reemployment, has no application here since it applies only to pension benefits derived from employer contributions.

Based on the above, it is concluded that the \_\_\_\_\_ International Union may not suspend (Name) 's pension benefits if he is rehired by \_\_\_\_\_, Inc.

Sincerely,