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HAWAIIAN DREDGING
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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 20, SUBREGION 37

HAWAIIAN DREDGING
CONSTRUCTION COMPANY, INC.,

and

INTERNATIONAL BROTHERHOOD OF
BOILERMAKERS, IRON SHIP BUILDERS,
BLACKSMITHS, FORGERS AND
HELPERS, LOCAL 627.

Case 37-CA-008316

ERRATA TO HAWAIIAN DREDGING
CONSTRUCTION COMPANY, INC.'S
REPLY TO COUNSEL FOR THE ACTING
GENERAL COUNSEL'S OPPOSITION TO
RESPONDENT'S MOTION FOR
SUMMARY JUDGMENT, FILED
FEBRUARY 3, 2012; EXHIBIT 1;
CERTIFICATE OF SERVICE

ERRATA TO HAWAIIAN DREDGING CONSTRUCTION COMPANY, INC.'S REPLY TO COUNSEL FOR THE ACTING GENERAL COUNSEL'S OPPOSITION TO RESPONDENT'S MOTION FOR SUMMARY JUDGMENT, FILED FEBRUARY 3, 2012

Hawaiian Dredging Construction Company, Inc. ("HDCC") filed a Reply to Counsel for the Acting General Counsel's Opposition to Respondent's Motion for Summary Judgment ("Reply") on February 3, 2012. Due to typographical errors, the Reply incorrectly states the dates on which certain events occurred. HDCC files this *errata* sheet to correct the errors contained in the Reply as follows:

The first paragraph of page 3 of the Reply which states, "Thus, when HDCC no longer had a contract with the Boilermakers Union, it did not employ any welders from February 17 through March 1, **2012**," should be changed to, "Thus, when HDCC no longer had a contract with the Boilermakers Union, it did not employ any welders from February 17 through March 1, **2011**," as illustrated in Exhibit 1, which is a red-lined copy of page 3 of the Reply, marking deletions in strike-through text and corrections in underlined text.

The second paragraph of page 3 of the Reply which states, "In fact, HDCC asked the Pipefitters Union to accept the welders it had laid off on February 17, **2012** and refer them to HDCC without going through the Pipefitters Union's application process, but the Pipefitters Union denied HDCC's request." should be changed to, "In fact, HDCC asked the Pipefitters Union to accept the welders it had laid off on February 17, **2011** and refer them to HDCC without going through the Pipefitters Union's application process, but the Pipefitters Union denied HDCC's request." as illustrated in Exhibit 1, which is a red-lined copy of page 3 of the Reply, marking deletions in strike-through text and corrections in underlined text.

No other changes to the Reply are necessary.

We apologize for any inconvenience these errors may have caused the Board and
its staff.

Dated: Honolulu, Hawaii, February 9, 2012.

A handwritten signature in black ink, appearing to be 'B. Marr', written over a horizontal line.

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Thus, when HDCC no longer had a contract with the Boilermakers Union, it did not employ any welders from February 17 through March 1, 2012~~1~~, until after it entered into a collective bargaining agreement with another union (the Pipefitters Union). See Memorandum In Support of Motion at 3, 5. There is no evidence that HDCC discriminated against the employees based on their union affiliation. Thus, far from fitting squarely within *CIMCO*'s parameters, HDCC's case is a round peg that the Opposition is trying to fit into a square hole.

Third, in claiming that Caughman did not work for HDCC at the time he conveyed the availability of employment opportunity through the Pipefitters Union, the Opposition conveniently avoids addressing the Board's July 29, 2011 Determination in which it found that HDCC had lawfully offered employment opportunity through the Pipefitters Union:

The employer offered its employees jobs under the new collective bargaining agree[ment] with the Pipefitters and some of the employees voluntarily chose not to join that Union.

The analysis turns on whether the employees are given the opportunity to work under the new terms and conditions of employment; here becoming members of the Pipefitters and working under the terms of that contract. [Citing *Jack Welsh*.] The Board held that where the employer lawfully offered employee opportunity to work at the changed conditions and employee voluntarily refused, there was no violation.

Declaration of Barry W. Marr dated January 31, 2012, ¶ 3, Exhibit 2. In fact, HDCC asked the Pipefitters Union to accept the welders it had laid off on February 17, 2012~~1~~ and refer them to HDCC without going through the Pipefitters Union's application process, but the Pipefitters Union denied HDCC's request. See Memorandum In Support of Motion at 4-5. Thus, the Opposition fails to rebut the Board's own findings that HDCC offered the welders an opportunity to work by becoming Pipefitters.

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CERTIFICATE OF SERVICE

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The undersigned hereby certifies that on February 9, 2012, a true and correct copy of the foregoing document e-filed and was duly served upon the following by the method of service indicated:

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DATED: Honolulu, Hawaii, February 9, 2012.

A handwritten signature in black ink, appearing to read 'B. W. Marr', written over a horizontal line.

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