



WORKER RIGHTS CONSORTIUM

To: Primary Contacts at WRC Affiliate Colleges and Universities
From: Scott Nova
Date: October 20, 2004
Re: Update on BJ&B

I write to inform you of troubling developments at the BJ&B factory in the Dominican Republic, where a successful remediation program was carried out in 2002 and 2003, involving both the WRC and the FLA. In the course of the WRC's ongoing follow-up work at the factory, we have determined that the factory has willfully failed to implement a central provision of a collective bargaining agreement signed with the factory union last year – the provision calls for a substantial salary incentive to have been implemented in early 2004 – in addition to refusing to make a contribution to a worker cooperative fund also required by the contract. We have also determined that BJ&B's parent company, Yupoong, has engaged in a program of anti-union discrimination by targeting workers at BJ&B for massive layoffs while maintaining employment levels at its non-union production facilities.

Failure to carry out legally binding contract provisions, and the dismissal of workers because of unionization, are unallowable actions under university codes.

Of even greater concern, the WRC has received information, as yet unconfirmed, that indicates Yupoong may be planning to shut down BJ&B entirely.

These developments are especially disturbing given the remarkable progress BJ&B had previously made towards code compliance. One of the first factories that caught the attention of student anti-sweatshop activists, BJ&B has been widely recognized as a stand-out example of the way in which college and university codes of conduct can be used to transform working conditions in apparel factories. After the WRC contacted licensees in early 2002 concerning apparently illegal dismissals of pro-union workers at BJ&B, Nike and Reebok intervened. The workers in question were reinstated and a process of remediation ensued that led to the elimination of long-standing problems at the plant, including of forced overtime, verbal harassment of workers by supervisors, and repeated efforts to coerce and intimidate workers who sought unionization. In the fall of 2002, BJ&B management recognized the union that a majority of workers had elected to join, and a few months later signed a collective bargaining agreement -- the first in any free trade zone factory in the Dominican Republic to provide for wages above the legal minimum. These achievements were featured in a prominent [New York Times article](#) in April 2003.

This current situation requires immediate attention. The WRC has contacted both Nike and Reebok, university licensees that are among Yupoong's biggest world-wide customers. We are also in the process of contacting additional licensees that have reported using the factory in recent disclosure data including Brine, Advon, Merge Left, and Town Talk.

We are asking the licensees to press Yupoong to take the following actions:

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1) Desist from any further attempts to reduce employment (or degrade production facilities) at BJ&B for discriminatory purposes. Implement a program to increase employment at BJ&B as rapidly as financial circumstances allow, until employment has been restored to the point where the percentage of Yupoong employees working at the unionized facility is no less than was the case at the beginning of 2003.

2) Implement the 10% salary incentive and make the contribution to the cooperative fund -- immediately paying workers all of the monies owed, with interest.

3) Refrain from any other forms of anti-union discrimination or coercion and fulfill all contractual obligations to the union and to BJ&B employees.

We have discussed the layoff and contract compliance issues with Nike and they have asked Yupoong for information. We are awaiting Nike's full response. We are also awaiting a response from Reebok on these issues.

The information suggesting a possible closure of BJ&B has come to our attention only in the last few days. We are in the process of communicating again with Nike and Reebok to inform them of this development and to urge them to take whatever steps are needed to deter Yupoong from closing the factory.

Colleges and universities that have a relationship with either or both of these licensees may wish to contact them to discuss these issues. Because of the finality of an actual closure of the factory, we consider the closure possibility as a particularly urgent matter.

Please note that the evidentiary basis of the WRC's conclusions concerning non-compliance with contractual obligations and anti-union discrimination is outlined below.

Please feel free to contact me if you have any questions or would like to discuss this further.

We will keep you posted.

Evidence on Code of Conduct Violations at BJ&B

1) The collective contract at BJ&B calls for a 10% incentive, to have been granted in January of this year. BJ&B has refused to grant the incentive, primarily on the grounds that workers already received a raise due to the government's decision to increase the minimum wage by 25% in the face of the devaluation of the Dominican peso. This is not a legitimate justification. BJ&B is contractually obligated to grant the incentive and the contract makes no exception for a circumstance in which the minimum wage has risen. The only relevance of the minimum wage to the 2004 incentive is that the calculation of the actual amount of the incentive is based on whatever the minimum wage level is in January 2004. The incentive is equal to 10% of that figure.

Moreover, in this case, the purpose of the national minimum wage increase was to make up -- partially -- for the sharp fall in the real value of wages due to peso devaluation. The increase was small, relative to the decline in the value of the peso. Therefore, despite the minimum wage hike, and even after BJ&B grants the 10% incentive, the company will still be paying workers substantially less in real terms than on the day the contract was signed. Thus, not only is there no legal basis for BJ&B to refuse to pay the incentive, there is also no financial basis, since

compensation costs will be lower even after the increase than BJ&B anticipated when it originally agreed to the incentive.

The Dominican Labor Ministry has looked at Yupoong's justifications for refusing to grant the incentive and has determined that they are invalid and that the company should proceed to fulfill the terms of the contract.

The company has also refused to abide by another clause in the contract, which calls for a 25,000 peso contribution to the union coop. Again, there is no legal justification for this refusal.

By violating a legally-binding contract, BJ&B is, of course, in violation of college and university codes of conduct.

2) Employment data for Yupoong's production system shows clearly that the company has concentrated layoffs at BJ&B, its one unionized facility, while preserving employment at its non-union facilities. The numbers are stark:

In 2000, Yupoong employed 2,546 workers at its two facilities in the Dominican Republic: 2,162 at BJ&B and 384 at a plant called Yupoong/Mocarea. Efforts to organize the union at BJ&B began the following year and the union was recognized and, as noted above, a contract signed in late 2002/early 2003. At that point, in early 2003, employment at BJ&B was roughly the same as in 2000. Employment at Mocarea had increased by 58% to 608 workers.

Thereafter, employment at BJ&B dropped precipitously. In early 2004, a year after the contract was signed, employment at BJ&B was down nearly 50% to 1121. Employment at Mocarea, however, was virtually unchanged at 604. Since this data was reported early in the year, layoffs have continued at BJ&B and there has been a significant increase in employment at Mocarea. As of now, each plant employs roughly 800 workers. Thus, since the recognition of the union and the negotiation of a collective bargaining agreement in 2003, the unionized workforce at BJ&B has been slashed by 63%.

Meanwhile, Yupoong has increased the workforce at Mocarea by 32%.

Yupoong says that reductions were unavoidable because of a severe downturn in the market for its product and that the burden of the layoffs has been shared evenly. That layoffs were necessitated by economic conditions may be true. The claim that the burden has been shared equally, however, is false. 1,400 workers have lost their jobs at BJ&B while Yupoong has increased employment at the non-union Mocarea plant by 200. Adding Yupoong's third major facility – in Dhaka, Bangladesh – to the equation only reinforces this conclusion. According to Edward Han of Yupoong, employment at the company's facility in Dhaka, Bangladesh, has been reduced by only 100 employees (out of a total of 800) during this period – a reduction of 12.5% versus the 63% reduction at BJ&B. Overall employment in the Yupoong production system has declined by 1,300 jobs, with the layoffs distributed as follows:

Unionized facility (BJ&B):	-1400 jobs (a 63% reduction)
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Non-union facilities (Mocarea + Dhaka):	+100 jobs (a 7% increase)
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Yupoong claims that Mocarea has actually seen a large-scale reduction in employment (two-thirds)

over the last five years, but data from the Mocarea free trade zone show otherwise. The data for employment levels at Yupoong's Mocarea plant follow (please note that the recent increase of 200 jobs is not reflected in this data):

Mocarea (2000-2004 period)*

Year	Male	Female	Total
2000	52	332	384
2003	163	445	608
2004	157	442	604

**data for 2001 and 2002 are not available*

At the time the BJ&B contract was signed, 61% of all Yupoong workers were employed at the union facility and only 39% at the non-union facilities. A year and a half later the situation is almost the exact reverse, only 38% of Yupoong's workforce is employed at its unionized facility and 62% at the non-union plants.

Yupoong may well have good economic and financial reasons for the overall reduction of a third in their global workforce, but they have taken advantage of this situation to depopulate their one and only unionized facility. These targeted layoffs constitute anti-union discrimination and are a serious violation of college and university codes.