



WORKER RIGHTS CONSORTIUM

Case Summary: Teerapat Industries (Thailand)

November 15, 2008

In response to a complaint from workers, the WRC initiated an assessment of Teerapat Industries Corporation (hereafter “Teerapat”) in mid-2007. Teerapat is a garment factory located in Nakhorn Pathom, Thailand. Although the factory does not appear in university disclosure records, workers interviewed by the WRC reported producing children’s clothing for Haddad Apparel bearing the logos of at least nine different universities, including WRC affiliates Ohio State University and Georgetown University. Haddad Apparel does business as a university licensee under the brand name Mighty-Mac. Haddad’s Thailand-based compliance staff confirmed to the WRC that the company had sourced collegiate apparel from Teerapat. In addition to Haddad, Teerapat’s other major customer was the non-collegiate brand, Benetton. The factory also fulfilled small orders for the brands, Hi-Roller, Nannette, Baby Q, and KidZone. Both Haddad and Benetton ceased production at the factory in early 2007.

The key issue raised in the complaint was the alleged illegal lockout and subsequent dismissal of 177 employees who had refused to sign new work contracts. The complaint also alleged that Teerapat had failed to make recent payments to the Thai Social Security Office, despite having deducted these payments from workers’ paychecks, and as a result, workers were ineligible for unemployment benefits. Shortly after the assessment was initiated, a third allegation was brought to the WRC’s attention: that factory management had threatened to file criminal charges against workers, allegedly in retaliation for their having filed a complaint with local labor authorities.

On the issue of the alleged unlawful lockout and dismissal, the WRC established the following timeline, based on worker interviews. In late April 2007, Teerapat management informed the workforce that it would soon be renting part of the factory buildings to a company known as Achani Enterprise. The following month, on May 1, management posted a notice in the factory informing workers that the company was undergoing financial difficulties and had therefore entered into a partnership with Achani Enterprise. Per this new partnership, workers were asked to resign from Teerapat and sign new contracts with Achani. Under Thai law, an employer cannot force workers to transfer their employment to a new employer; workers must consent to such a transfer before it can take place.

Initially, all workers refused to resign and accept new contracts with Achani, citing various concerns including that they would lose their accumulated seniority and would therefore be forced to accept reductions in wages and benefits. Achani representatives

subsequently announced to workers that employees would not lose seniority or accrued benefits upon signing new contracts. Upon hearing this announcement, roughly fifty-six workers agreed to resign from Teerapat and sign new contracts with Achani. However, a larger group of 177 workers declined to transfer their employment. According to interviews with the WRC, these workers chose not to resign and sign new contracts because they did not feel that the company was being fully transparent about the circumstances and consequences of the transfer and because they understood that they had the right by law to elect to maintain their employment at Teerapat.

On May 26, these 177 employees were told to leave their work stations, because they were not employees of Achani Enterprise, which had rented the premises. A rope was erected to prevent workers from re-entering the space where they had formerly worked. Workers reported to the WRC that they submitted a written complaint to Teerapat management on the day this occurred, but they received no response. In the following weeks, these workers continued to report to work each day and remain at the factory during work hours, despite not having been assigned any work by Teerapat and being denied access to production areas by Achani Enterprise. Workers were also prohibited from using the company bus to ride to and from work and were denied access to drinking water while at the factory. Because these workers were still employed by Teerapat, the WRC found that the refusal to allow these employees access to the work area, use of company transportation, and access to drinking water at the workplace, as well as the refusal to provide them with work assignments, amounted in effect to an unlawful lockout of the workers.

On June 12, Teerapat informed the 177 workers that they had been dismissed for failing to perform their work duties for three days beginning on May 27. The dismissals were effective on May 30. The WRC found these dismissals to be unlawful on the grounds that the cause provided for the terminations – the failure of these workers to perform their employment duties – was a direct result of their being denied access to their work stations by Teerapat's tenant, Achani Enterprise, and subsequent failure on the part of Teerapat to assign them any new work duties. The WRC's findings were consistent with a subsequent ruling by the Nakorn Pathom Provincial Office of Labor Protection and Welfare, issued on July 3. The ruling, which was reached after testimony was presented both by workers and Teerapat management, found that the employees did not voluntarily abandon their work duties, but were instead forced to cease working as a result of their being denied access to their workplace and not being assigned new work, despite their requests to management in this regard. Therefore, the Labor Office found that the employees were legally employed by Teerapat until their dismissals were announced on June 12 and were thus owed wages through June 12 (they had not received any pay since mid-May), notice pay, and severance pay in accordance with the Thai Labor Protection Act of 1998. Teerapat was ordered by the Labor Office to pay a total of 1,135,440 Thai Baht (roughly \$36,000 USD) in unpaid wages and 6,806,651 Thai Baht (roughly \$216,000 USD) in severance payment to the workers.

On the issue of Teerapat's alleged failure to make payments to the Thai Social Security Office, workers interviewed by the WRC testified that they were denied unemployment

benefits because their employer had not paid their dues since March of 2007. The WRC found that the employer continued to deduct social security payments from workers' wages during the period in which the dues were not paid to the government. Teerapat also failed to report the dismissals of the 177 workers to the Social Security Office, another prerequisite for their eligibility to receive unemployment benefits. Fortunately, this problem was remedied following the ruling by the Provincial Office of Labor Protection and Welfare on July 3, as the Labor Office reported the dismissals, as well as its ruling, to the Social Security Office. Social Security Office officials subsequently determined that workers were not at fault for the non-payment of dues in April, May, and June. The workers' enrollment in social security was restored and they were therefore able to access unemployment benefits.

Following the July 3 ruling, the WRC was concerned to learn from worker interviews that Teerapat had threatened to file a police complaint against the employees for allegedly having removed company property from the factory premises without permission. According to worker testimony, the allegedly stolen items in question were factory time cards for recording hours worked, which the workers took to the Office of Labor Protection and Welfare as evidence that they had been reporting to work on the days that management claimed they had abandoned their work stations. Given that the punch cards have no monetary value and that the information they contained was clearly pertinent to legitimate legal proceedings, the WRC found that the threats of criminal charges had no basis in fact and were intended to intimidate and deter workers who sought to defend their rights by filing a complaint with government authorities regarding the facility's labor practices.

Based on the findings reviewed above, the WRC made three principal recommendations to Teerapat Industries management: 1) abide by the ruling of the Provincial Office of Labor Protection and Welfare regarding the payment of back wages to the 177 workers in question; 2) abide by the ruling with regard to payment of notice pay and severance or, should workers so request, negotiate terms of continued employment with no reduction in seniority or salary; and 3) refrain from filing criminal charges against employees for their legitimate use of their own employment records in filing a labor rights complaint with the Office of Labor Protection and Welfare.

The WRC submitted these findings and recommendations to Teerapat management in writing on July 7. Although the WRC was able to confirm with a secretary that the management had received the WRC's communication, Teerapat has refused to discuss the findings or respond to the recommendations in any way. However, workers did report to the WRC shortly after the recommendations were submitted that management ceased threatening to file criminal charges against them, which was a positive development.

The WRC contacted Haddad and asked for the licensee's assistance in encouraging its supplier to carry out the recommendations. In July, Haddad agreed to assist in addressing these issues with Teerapat. At that time, the WRC was concerned that Teerapat would appeal the Labor Office's ruling to the Thai Labor Court, which would delay workers' receipt of the funds they were owed. In light of Teerapat's refusal to respond to the WRC,

we believed that intervention by the licensee was necessary to ensure that workers were paid in a timely manner. However, Haddad subsequently informed us that it was unable to contact Teerapat management. Haddad had not done business with the factory for several months, and its contact (Teerapat's sales manager) was no longer employed at the company. Haddad told the WRC that it had made attempts to contact other representatives of Teerapat, but that it was unable to make contact with anyone from Teerapat due to the rental of the premises by Achani Enterprise.

Soon after receiving this disappointing response from Haddad, the WRC learned that Teerapat did not file an appeal to the Thai Labor Court, which meant that the ruling of the Office of Labor Protection and Welfare was legally enforceable thirty days after it was issued. Teerapat management, however, claimed that it did not have sufficient funds to pay the compensation and severance, and asked the Labor Court for an extension on the time allowed to file an appeal. The court did not grant Teerapat's request for an extension and instead ruled on November 23 that the factory was obligated to pay workers 100% of the severance and back wages that the Provincial Labor Office had determined they were due.

Teerapat failed to comply with the Labor Court's order to pay the workers. In response, the workers brought the case to the Legal Execution Department (LED) of the Thai Ministry of Justice in December. The LED is the government agency that handles unpaid debts between private parties; the agency has the authority to confiscate one party's assets if payments are not made. Progress at the LED has been slow. In February of this year, and again in early May, an official from the LED, accompanied by workers, visited the Teerapat premises to conduct a survey of the company's assets, but on both days Teerapat representatives refused to meet the LED official, and representatives of Achani stated that the Teerapat premises were locked and they did not have access to the keys. Fortunately, soon after this second visit, some progress was achieved: Teerapat paid the workers their back wages, with interest, on May 21, 2008. On the same day, the LED facilitated a negotiation between Teerapat management and the workers, in which the workers accepted management's proposal that it pay 70% of the severance on the grounds that it did not have the funds to pay the entire amount. However, to date workers have received none of this money.

In sum, while some progress has been achieved, there has not been complete remediation of the non-compliances documented in this case.