

## **Minutes of the WRC Board Meeting: January 27, 2012**

Attending the meeting were Jim Wilkerson, Marybeth Schmutz, Dawn Crim, Julie Martinez Ortega, Katie Quan, Jeff Hermanson, Mary Yanik, Cristina Lor, Rich Garzon, and Morgan Currier. Jill Esbenshade joined by phone. WRC staff members in attendance were Scott Nova, Ben Hensler, Jess Champagne, Bent Gehrt, and Lynnette Robinson.

The meeting was called to order at 9:17 a.m. by acting board chair, Jim Wilkerson.

**Board Office Election:** Marybeth nominated Jim to serve as Board Chair, in place of the late LaMarr Billups; Dawn seconded the motion. Jim was unanimously elected.

**Board Meeting Minutes of October 28, 2011:** Dawn motioned to approve the minutes; Mary seconded the motion. Minutes were unanimously approved.

**Agenda Review:** The field staff report was moved to follow the morning break. The report on the DOJ business review decision was moved to follow lunch.

**Treasurer's Report:** Morgan Currier stated that she had reviewed financial reports, which were in good order, and that further discussion of finances would take place during the executive session.

**Executive Director's Report:** Scott provided an update on PT Kizone in Indonesia, where workers were denied millions in legally mandated compensation after the factory closed in April 2011. The factory produced for Nike, adidas, and the Dallas Cowboys, as well as non-collegiate buyers. Partial payments have been made by several buyers, including Nike who has paid over half a million dollars to workers, along with \$1 million that Nike persuaded its agent, Green Textile, to pay. Nike says its payment is commensurate with its portion of the factory's production output. This is not an approach contemplated in university codes or accepted by the WRC; however, in this particular case, it has generated very substantial funds for the workers. Scott noted that Nike has done more in this case than the other major brand involved, adidas, which takes no responsibility and refuses to pay anything, claiming, falsely, that they had left the factory before the violations began. Nike's willingness to pay severance in prior cases, and in this case, has set a precedent for other major brands and the WRC hopes that adidas will acknowledge responsibility.

Scott then updated the board on Genesis in Haiti, which produces blank t-shirts, almost exclusively for Gildan, some of which are used by university licensees. Haiti has some of the lowest wages in the world, which attracts buyers looking to cut costs, and also has some of the worst working conditions. Within days of the emergence of a new industry-wide union in Port-au-Prince, six of the seven union leaders were fired. Four of the dismissal took place at Genesis. The WRC investigated and found evidence demonstrating conclusively that the firings were retaliatory. After substantial pressure by Gildan, the four workers at Genesis were reinstated with a commitment to an ongoing dialogue. A fifth worker, fired by Hanesbrands' supplier,

Multiwear, was also reinstated. The third factory involved in the firings does not produce for any well-known brand, but there is still work being done to reinstate the last workers at the factory.

Scott then reported on building safety work in Bangladesh and the ongoing effort to engage with brands. Two more fatal incidents occurred in December 2011, killing three workers. Buyers included Gap and Tommy Hilfiger. Brands have agreed to pay compensation to the workers, but this underscores the more important need for factory inspections and repairs to get them up to code. There must be a commitment by brands to share the cost of repairs and renovations, which has caused negotiations with brands on a binding accord to come to a standstill and the WRC is waiting on Gap to respond to the current proposed agreement.

Scott then provided an update on Alta Gracia in the Dominican Republic. In positive news, Barnes and Nobles awarded the factory with a contract for 500,000 t-shirts, which they award annually to one supplier. In addition, Notre Dame ordered 100,000 t-shirts from the factory for their t-shirt give-away program during their first home game. A new WRC monitoring report was released in November, indicating that compliance at the factory continues to be exemplary.

Before break, Mary Yanik motioned: "I move that the proposed revisions to the Model Code of Conduct, including the severance pay and prohibition on prison labor clauses, be discussed by the Board today and at the next Meeting, with final consideration and voting on the proposed revisions to be delayed until the next meeting of the board." The motion was seconded by Dawn Crim and passed unanimously.

**Field Staff Report:** Bent discussed trends in Southeast Asia. There has been a major increase in production in Cambodia because of wage increases in China. Cambodia has become the cheapest place in Southeast Asia. Trends in region shift back and forth.

Bent then reported on a case at Young Man Development factory in China which produces collegiate gear (Baden Sport is the licensee at the factory). The WRC received a complaint from a worker, claiming that he had been the victim of an industrial accident, yet had not received compensation or paid sick leave, despite being medically diagnosed with a severe arm injury. He was also told that he was going to be dismissed, so the WRC started investigating last year. The worker was pressured to leave, but the WRC was successful in convincing the factory to address this workers' situation appropriately. The factory employs a significant number of migrant workers, which brings unique challenges to the investigation; it's hard to overcome workers' fear of speaking out. In addition, workers do not communicate readily with one another, which hinders collective action. Many safety hazards were found during the WRC's investigation. The WRC is continuing to monitor the factory. (The University Code Revision Committee is working on a clause to address migrant issues.)

Bent then discussed the mass fainting incidents in Cambodia since June 2010. There have been at least 33 separate incidents of mass fainting by workers in 16 garment and footwear factories in Cambodia, with the most recent occurring in January. In all, almost 2,400 workers have fainted. According to the media, most have been hospitalized or have received some sort of treatment. There are approximately 300,000 apparel workers in Cambodia. Since March, it's been happening on an alarmingly regular basis. Potential causes include chemical exposure, excessive overtime, excessive heat and inadequate ventilation, restrictions on toilet access, other

occupational safety and health hazards, lack of access to adequate healthcare, psychological factors (panic and stress), and malnutrition. So far, none of the recorded cases have occurred during the production of collegiate apparel. Research studies show that workers do not have an adequate intake of calories (total average calories consumed for lunch is 450, by the WRC's estimate).

Next, Jess provided an update on the Nemtex textile mill in El Salvador, which produces for Hanes, Gear for Sports, and Under Armour, where five union leaders were illegally fired, and then an additional seven union members were fired. Since then, the WRC has been continuously engaging with Hanes, as a representative of the brands, and ten of the workers have been reinstated; one of the workers is not currently seeking his position back. However, Nemtex is refusing to reinstate the last worker. The company is stating that it will allow for open dialog between the union and management regarding workplace issue, yet it has not announced at date or confirmed the initiation of the process. The WRC is continuing to engage with Hanes regarding the remaining violations.

Ben then discussed his concerns on the Fair Trade USA program. WRC field staffer, Manodeep Guha traveled with a delegation to visit two factories. What we found at both factories was that the fair trade program sets an aspirational goal for living wage, but not a firm requirement from the outset. Both factories claimed that they were paying a living wage, but after examination of the data provided by management, it was clear that the factory was only paying minimum wage but claiming that they were paying a living wage. Health and safety conditions were also rudimentary, which included backless chairs that can lead to repetitive strain injuries. In the last week, the WRC shared its observations with Fair Trade USA and with other labor rights organizations. The WRC hopes that this makes Fair Trade USA re-evaluate their approach.

Next, Ben updated the board on the favorable business review letter issued by the DOJ in December. The letter is a statement that the DOJ will not take any enforcement action if the DSP is implemented and that the program complies with anti-trust laws. The program was approved without any substantive changes to the workplace standards. All the standards that were in the program originally (i.e. requiring factories to comply from the outset with university codes of conduct, living wage, and robust protection for freedom of association) were approved by the DOJ, permitting schools to require their licensees to demonstrate in advance that their factories comply with university codes and pay a living wage. The DOJ also approved the standards in the DSP to ensure that the factory standard is sustainable long-term: it approved the universities' requirement that licensees pay factories a fair price and that universities require licensees to enter into long-term contracts with their suppliers. There were modifications made to the program in response to advice from the DOJ that center more not on the outcome, but on how the program is implemented in the process of reaching that outcome and ensuring that the impact of the program as a whole is pro-competitive and making sure the program doesn't open the door for anti-competitive conduct (by licensees). These modifications did not change the conditions or the standard that the program would require at the factory level. What the DOJ focused on was the need for universities to: (1) make independent decisions in choosing whether to participant in the program, (2) choose independently which and how many of their licensees to sign under the DSP terms, (3) and to choose independently on what schedule to phase-in the DSP among the school licensees. In addition to recommending independent decision making by the schools, the DOJ recommended that the requirement that was originally in the program which required that DSP

factories have the majority of their production produced under DSP licenses be removed. The DOJ also wanted to make sure that the program had some pro-competitive elements for consumers, so the DOJ strongly recommended that there be some form of information provided to consumers at point-of-sale, such as a label that would inform consumers of the distinctive nature of DSP garments. The issuance of the favorable business review letter shows that there is now a way forward. It's up to affiliate schools to decide whether and when to implement the program. Scott reported that the WRC would restate to schools the organization's longstanding support for the DSP as the only viable means to achieve genuine compliance with university labor standards in the collegiate supply chain and would inform schools of its willingness to assist in appropriate ways with implementation at any school that decides to go forward with the program.

The next board meeting was set for April 17, 2012. A back-up date was set for June 22, 2012.

### **Report from Board Group/Revisions to Model Code of Conduct:**

There was further discussion of the Board's plan to amend the WRC Model Code to address severance issues. A more concise version of language previously discussed was proposed, as follows:

"Licensees shall be jointly and severally responsible for all legally mandated compensation, including but not limited to severance pay, accrued vacation and holiday pay, and unpaid wages owed to workers employed at factories that have produced licensees' apparel, even if the licensee is not the direct employer of the workers."

Consistent with the successful motion by Mary Yanik mentioned above, final action on this was deferred to the next meeting of the Board.

Scott noted his previously expressed point that the WRC should clarify, in amending the Model Code to address licensees' obligations in cases of unpaid compensation, that the WRC is doing so because it believes clarity is important on this key issue, even though the WRC recognizes that existing university codes already effectively create such an obligation by requiring compliance with local law governing compensation. Mary suggested that when a full revision of the code is done, the WRC should include a brief note explaining this point.

Scott raised a technical question: that the proposed language could be read to suggest that this liability exists even before there's a violation." Ben suggested the language should refer to "unpaid compensation." This will be further discussed at the next board meeting.

**Executive Session:** An executive session was held to discuss confidential personnel and financial matters.

The meeting was adjourned at 4:08 p.m.