



WORKER RIGHTS CONSORTIUM

**Worker Rights Consortium Assessment re Rights of Association of
Russell Athletic and Fruit of the Loom Employees in Honduras:
Analysis of Employee Interviews**

Findings and Recommendations

June 19, 2009

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Executive Summary

This document summarizes the results of worker interviews carried out by the WRC from May 23 to June 11 with workers from four of Russell's Honduran factories. The purpose of the interviews was to determine whether, in the aftermath of the closure of the Jerzees de Honduras (JDH) facility, workers at these other factories believe that they can exercise their associational rights without facing retaliation from management.

As outlined below, the interviews indicate that many of Russell's Honduran employees believe that management will retaliate against any worker who attempts to organize a union and that such an effort, in addition to drawing personal reprisals against the workers involved, will increase the chances that their factory will close. These results constitute compelling evidence that Russell's current "corrective action plan" has failed to reverse the chilling effect of the company's actions at JDH and that workers at these facilities cannot freely exercise their associational rights without fear of reprisal.

I. Introduction

When a company engages in retaliatory firings of workers who seek to exercise their associational rights, the impact is felt not just by those who are fired, but by their co-workers – and, if the case has a high profile, by workers at the sister plants of the affected facility. This "chilling effect" is a major concern for labor rights monitors, since it can be a very powerful deterrent to the workers' future exercise of freedom of association. Companies seeking to deny workers' associational rights are generally well aware of this; indeed, the creation of a chilling effect among a company's remaining employees is often the primary purpose of retaliatory dismissals.

The chilling effect at Russell's Honduran facilities arising from events at JDH is one of the central issues in the Russell case. As the WRC has reported, we considered the corrective actions announced by Russell in this regard, most notably the reissuance of a prior promise to respect workers' associational rights, to be woefully inadequate to the task at hand – given the severity and notoriety of the violations at JDH and given that Russell had repeatedly violated its pledge to respect freedom of association after its first issuance. Under these circumstances, we did not believe that the mere restatement of that pledge, and the other comparably modest steps announced, would convince most of the company's Honduran employees that they could exercise their rights free from fear of reprisal.

Russell has now reported that it has carried out the announced remedial steps, including the reissuance of its statement promising to respect workers' rights of association. It is therefore important to evaluate, at this juncture, whether those steps have created a climate in Russell's factories in which workers believe that they can exercise their associational rights without reprisal.

Toward this end, the WRC, working with our Honduran partner, the Independent Monitoring Team of Honduras (EMIH, for its acronym in Spanish), conducted offsite interviews with workers at four of Russell's Honduran factories.

EMIH is a well-respected independent labor rights monitoring organization with particular expertise in investigations involving offsite worker interviews. Based in San Pedro Sula, Honduras, EMIH has done work for a range of major organizations and brands (including Nike, adidas, Gap, and the World Bank).

II. Interview Process

A total of 104 workers were interviewed by EMIH from the following factories: Dos Caminos, El Porvenir Manufacturing, Jerzees Buena Vista, and DeSoto. The first three of these four plants are apparel manufacturing facilities, while the fourth is a manufacturer of textiles and socks. The following table sets out the number of workers interviewed at each facility, along with a gender breakdown. The free trade zone and city in which each plant is located are listed in parentheses.

	Dos Caminos (ZIP Bufalo, Villanueva)	El Porvenir Manufacturing (ZIP El Porvenir, El Progreso)	Jerzees Buena Vista (ZIP Buena Vista, Villa Nueva)	DeSoto (ZIP Merendon, Choloma)	Total
# of workers	28	25	25	26	104
% women	71%	76%	84%	58%	72%
% men	29%	24%	16%	42%	28%

The interview subjects were selected at random. All of the interviews were conducted away from the workplace. The interviews were arranged by EMIH without any involvement by Russell management or any labor union.

The interviews focused exclusively on the issue of freedom of association. Each worker was asked how she/he believes management would respond to an effort by workers to unionize; how she/he believes a worker's personal involvement in union activities would effect the way managers treat that worker; whether she/he believes the organization of a union would increase the likelihood that their factory would close; whether she/he is aware of recent communications from management concerning freedom of association; how she/he recalls the content of those communications; and related questions.

III. Findings

It is clear from the interviews that many Russell employees believe that if they try to exercise their right to form or join a union, they will be punished by factory management. Workers fearing such retaliation expect management to respond with personal reprisals against workers involved in a unionization effort and also believe that such an effort would increase the chances of the outright closure of their factory. Many workers consider factory management to be deeply hostile to the prospect of unionization and believe managers will go to great lengths to ensure that no union is formed in their factory. This fear was substantially in evidence at all four of the factories at which interviews were conducted. Most workers interviewed were well aware of the closure of Jerzees de Honduras.

It is also clear from the interviews that Russell's corrective action plan is not effectively addressing the problem. This plan consists primarily of communications to workers pledging that management will respect their associational rights and also includes revisions to disciplinary procedures for supervisors and related measures. Some workers interviewed were entirely unaware of management's communications promising to respect the right to organize. Those who were aware of these communications were in many cases disinclined to believe that they reflect managements' true intentions. This skepticism that management would ever allow a union, and that any worker could engage in union activities without facing reprisals, was a clear theme in the testimony of many interviewees.

The interviews also revealed that Russell, even as it communicates its official pledge to respect associational rights, is urging workers *not* to exercise these rights. When asked to summarize the communications the company has made concerning freedom of association, many workers reported that the company has announced that workers can form a union – but has also told them that unions are unnecessary and that workers should talk to management before forming one. Many workers reported that managers have told them that there is no need for a union because management already confers so many benefits upon the workforce. Some workers reported that management has told them they can form a union – but that if they do, and they subsequently lose their jobs, no one else will hire them. Other workers reported that management has characterized the formation of a union as an “extreme” choice that workers should not make without first going to management to “work things out.” Management's statements against unionization were cited by some workers as one reason why they doubt the sincerity of management's pledge to respect the right to organize. These workers said to interviewers that if the pledge to respect the right to unionize were sincere, management would not be telling workers that unions are unnecessary and that workers need to talk to management before forming one.

Since the purpose of Russell's communications to workers concerning freedom of association is ostensibly to reassure workers that the exercise of their associational rights will not cause management to treat them less favorably, it is singularly inappropriate for managers to use the opportunity of these communications to press workers not to unionize. Under the circumstances, it must be assumed that many workers will see an implied threat in such statements – and the interviews show that is indeed how many workers understood

the communication. In some cases, as in the reference to likely blacklisting of union supporters, the threat conveyed was not implied, but explicit.

IV. Summary of Responses to Standard Interview Questions

All of the worker interviews commenced with a standard set of questions. The following is a statistical summary of workers' responses to these questions (the percentages are out of the overall interview pool, across all factories).

A large majority of the workers interviewed believe that the organization of a union at their factory will make it more likely that the factory will close.

Question: Does the worker believe an effort to organize a union would make it more likely that their factory will close?	Yes	No
	65%	35%

A large majority of the workers believe that any personal involvement on their part in union activities would cause management to treat them less favorably.

Question: Does the worker believe management would treat her/him more favorably, less favorably, or the same if the worker told management that she/he wanted a union.	Less favorably	More favorably	The same
	71%	12%	17%

Workers were asked, in an opened-ended question, what the response of management would be if workers tried to organize a union at their factory. This was the initial question asked of all workers interviewed. The WRC classified the management responses predicted by workers as negative, positive, or neutral. A majority responded that there would be resistance from management.

Question: What does the worker believe would be the response of management if workers tried to organize a union at the plant?	Negative	Positive	Neutral
	70%	24%	6%

Many workers cited one or another specific form of retaliatory action as the likely response. Among the actions workers predicted are the following:

- That workers engaged in union activities would be fired
- That workers engaged in union activities would be told to resign
- That workers engaged in union activities would be “written up” for disciplinary violations

- That workers engaged in union activities would be transferred out of their current production cells
- That workers engaged in union activities would be punished in other unspecified ways
- That management would react with hostility because unions are “prohibited” in the factory
- That management would take various steps to ensure that a union is not created

Half of the workers interviewed were aware of recent communications from factory management stating the company’s intent to respect the right to unionize. Of the workers who were aware of these communications, only one out every four believes they reflect management’s actual views and intentions. Nearly six out of ten of those workers believe the statements do not reflect management’s actual views and that management does not respect workers’ associational rights. This means that of all workers interviewed, *barely one out of every eight* has both heard Russell’s official pledge to respect associational rights and believes it to be sincere.

Is the worker aware of management’s pledge to respect associational rights, and, if so, does the worker believe it is sincere?	Not aware of pledge	Aware of pledge, but does not believe it is sincere	Aware of pledge, but does not know if it is sincere	Aware of pledge and believes it is sincere
	50%	29%	7%	13%

In analyzing the data presented here, it is important to note that these interviews were not an opinion poll. The purpose of the interviews was to determine whether Russell’s Honduran employees can exercise their associational rights free from fear of retaliation. If a substantial number of workers at a factory believes the exercise of these rights would draw a retaliatory response from management, this constitutes a serious labor rights problem, even if a majority of workers do not express such a fear.

The results of these interviews are therefore particularly disturbing. Not only did a substantial number of the workers interviewed say they believe management would retaliate if workers sought to organize a union; in fact, as outlined above, *most of the workers interviewed* expressed this fear.

Moreover, the EMIH interviewers believe the results, in the aggregate, likely *understate* the percentage of the interviewed workers who believe that efforts to unionize would draw a retaliatory response from management. EMIH reports that many workers interviewed responded fearfully as soon as the subject of management’s policy toward unions was raised. The interviewers sought to reassure workers that management was in no way involved with the interview process, that the interviewers had no connection to Russell,

and that responses would be kept in strict confidence. Despite these efforts, it is EMIH's opinion that some workers interviewed were afraid to contradict what they know to be the official position of the company – that Russell respects worker rights – and therefore did not provide candid responses. Since this effect cannot be assumed, EMIH and the WRC have made no attempt to correct for it, but the concern should be noted. Nonetheless, even with the dampening effect of this potential bias, the results show widespread fear of retaliation among Russell's Honduran workforce.

V. Conclusion and Recommendations

Interviews conducted by the WRC and EMIH with 104 workers from four different Russell factories indicate that many of Russell's Honduran employees believe that they cannot exercise their associational rights without facing retaliation from management. The interviews indicate that workers fear both personal and collective forms of reprisal. Under such conditions, workers cannot meaningfully exercise their right to organize and bargain collectively.

The interviews show that Russell's Jerzees de Honduras corrective action plan has failed to protect the associational rights of workers at Russell's remaining Honduran factories and instead has allowed a climate of fear to persist at these facilities. Indeed, the centerpiece of Russell's plan – the reissuance to workers of the same pledge to respect associational rights that the company issued after violations were exposed in 2007 – appears to have been combined in many instances with the circulation of anti-union statements to these same workers. Unsurprisingly, almost none of the workers interviewed believe that the company's pledge to respect their rights is sincere.

A far more robust program of remediation is required to lift the climate of fear at Russell's Honduran factories and ensure that all workers at these factories have the freedom to exercise their associational rights, as enumerated in Honduran law and university codes of conduct. The WRC's detailed remedial recommendations, issued in a recent memorandum to affiliate universities, are included as an appendix to this report.

Appendix

Additional Remedial Recommendations re Russell/Jerzees de Honduras Case

June 1, 2009

This document outlines the remedial measures necessary to address the chilling effect on workers' exercise of associational rights at Russell factories throughout Honduras caused by the company's actions in the Jerzees de Honduras case.

It is important to bear in mind that this chilling effect has been exacerbated by Russell's failure to take timely and meaningful action to address the violations at JDH. More than seven months have now passed since the closure of JDH was announced. Russell's violations of the rights of the workers at JDH, and the company's failure to correct those violations in a timely fashion, have sent a powerful message to Russell employees throughout Honduras that any effort by workers' to exercise their associational rights is futile – and will only result in workers being subjected to threats, intimidation, and, ultimately, losing their very livelihood. This situation is particularly damaging because Russell is the largest private employer in Honduras and the Jerzees de Honduras case has been widely-covered in the Honduran media. The influence of Russell's conduct on the overall labor rights environment in the country is therefore quite profound. Very extensive and concrete measures will be required at Russell factories in Honduras in order to reverse this chilling effect and enable workers to freely exercise their associational rights.

It is important to emphasize that these measures are needed in addition to the corrective action that is required to address the harm directly done to the JDH workers. As you know, the WRC has recommended that the JDH workers be reinstated, with back pay, through the reopening of the JDH plant. Reinstatement with back-pay is, under international labor standards, the minimum remedy that is appropriate when workers lose their jobs due – in any significant part – to a retaliatory motive of their employer. Russell's current remediation plan, which does not guarantee reinstatement to a single JDH worker, much less the whole workforce, does not address the harm the JDH workers have suffered.

With respect to the chilling effect at Russell's other factories, strenuous measures are also needed. There are well-established procedures for remedying the chilling effect caused by severe violations of workers' associational rights and these procedures should be followed in the present case. The measures Russell has undertaken on this question to date – which center almost exclusively on the re-issuance of existing company policy on freedom of association – fall far short of these requirements. This is particularly true because, since Russell first issued its freedom of association policy in 2007, the company has repeatedly violated it. In general, a public commitment by a company that it will respect workers' rights and will cease and desist from future violations may be sufficient where the violations committed are not particularly serious and the employer has

no prior history of such conduct. However, where violations are severe and have been repeated in multiple instances, far more extensive measures are required.

The main objective of a remediation program at the affected factories must be to create an enabling environment in which workers can exercise freedom of association insulated from any coercion from any party. First, employees must be free to meet with their co-workers and union representatives, on factory premises, on non-work time and in non-work areas. Second, a company policy of non-interference with freedom of association must be implemented in concrete terms, so that employees are convinced that, this time, the employer actually "means it." This must include a requirement that management refrain from any further conduct meant to influence workers' exercise of their associational rights – since it is no longer reasonable to assume that workers, who are aware of the rampant retaliatory measures by taken by Russell at JDH, will be able to distinguish between a coercive threat and a non-coercive argument against unionization. Third, given the specific circumstances of the Russell case, there must also be a reasonable and credible commitment made regarding stability of production and employment at plants where workers chose to exercise freedom of association – otherwise workers may understandably fear that exercise of their rights will lead inexorably to plant closure. Fourth, a special mechanism is needed to monitor and enforce management's compliance with its remedial commitments and to order remedies on a real-time basis.

Specifically, Russell should take the following specific steps at all of its wholly-owned and operated facilities in Honduras:

Access for Union Representatives

- Afford employees, on an ongoing basis, the freedom to meet with staff and designated employee representatives of the JDH workers' union federation, the Central General de Trabajadores (CGT) in non-work areas of the factory and on industrial zone premises, on non-work time.
- Provide the CGT reasonable and secure access to post literature on all factory bulletin boards and all places where notices to employees are customarily posted.
- Afford the CGT the right to make periodic presentations to all non-management employees, during work time, with no loss of pay for the employees.
- Offer jobs to interested worker-leaders of the JDH union (Sitrajerzeesh), equivalent to those they held at the JDH plant, with the assignment of each board member to each plant to be determined by the union with agreement of the employee. The presence of proven worker-leaders in these factories is essential if workers are to be empowered to exercise associational rights. This measure is necessary to counteract the effect of the company's prior conduct on these plants' existing workforce.

Notice to Workers and Non-Interference in Workers' Decisions Concerning Their Associational Rights

- Require all managerial and supervisory employees to refrain from making any statements regarding the exercise of freedom of association apart from the company's official notice of its policy and discipline any employee who threatens or otherwise engages in discriminatory treatment towards another employee on the basis of their exercise of freedom of association. In the event that any managerial or supervisory employee does make any statement apart from the company's official notice of its policy, give the union a meaningful opportunity to respond to all employees affected.
- Provide workers, and the university community, with reasonable commitments regarding the stability of production and employment levels of its existing Honduran facilities. Discussion will be required among the stakeholders to determine what commitments are necessary and appropriate.
- Provide to workers at all factories a letter from top executives at Fruit of the Loom and Russell explaining that the company's business partners require that it fully respect and adopt a policy of non-interference toward workers' exercise of associational rights, stating that it is in the corporation's interest to respect these rights, stating that the company will recognize and bargain in good faith with any duly constituted union workers choose to form, stating the company's intention to discipline – and, if necessary, dismiss – any manager, supervisor or employee who discriminates against other employees' exercise of, or otherwise violates, freedom of association rights, and enumerating the remedial steps to which the company has agreed.

Compliance and Monitoring

- Agree to a system of compliance monitoring of these remedial actions and of compliance with all applicable law and codes of conduct that involves the following elements:
 - The appointment of a freedom of association ombudsperson, acceptable to both Russell and the CGT, to be supervised by the WRC. This ombudsperson's role will be to monitor compliance and receive and investigate complaints on a real-time basis (in most cases, the day complaints are lodged or the following day) and, where needed, to recommend immediate remedial action by management.
 - The ombudsperson will have regular access to all Russell production facilities in Honduras, including the right to enter the facilities unannounced and to have the same level of access to managers, company records and workers as would be typically granted to a labor rights auditor. The

ombudsperson will have the right, when he or she deems it necessary, to appoint a factory-level deputy and place that person in a given factory, for as long as needed to address acute or ongoing problems. The deputies will have the same powers as the ombudsperson.

-The company will be obligated to act in good faith both to cooperate with the ombudsperson and any deputies and to implement remedial recommendations they may make. The ombudsperson will issue regular reports concerning Russell's compliance with its obligations, which the WRC will provide to affiliate universities and will make public. The ombudsperson will also have the right to request emergency intervention by the WRC if serious problems occur and the company fails to address them. The ombudsperson will establish a complaint system whereby complaints can be lodged and will provide information, through both printed material and public presentations, to all workers explaining the role of the ombudsperson, the complaints process, and the company's obligations. The cost of the salary and expenses of the ombudsperson, and any deputies he or she chooses to appoint, will be born by Russell.

- Take swift and appropriate disciplinary action against any company employee or manager who violates the terms of this plan, including where recommended by the ombudsperson.

Collective Bargaining

- Immediately recognize any legally constituted union formed by its employees and commence good faith negotiations towards a collective bargaining agreement in a timely manner upon that union's request.
- In order to facilitate constructive industrial relations and minimize fear on the part of workers of retaliation against the workforce of a particular plant for the exercise of their associational rights, Russell must agree, if so requested by the CGT, to bargain a joint, multi-factory collective agreement, covering all factories where workers are represented by the CGT.

Legal Compliance

- In addition to these measures, Russell must also comply with all applicable Honduran law governing freedom of association.

Plan Development and Implementation

These recommendations outline, in broad terms, the measures needed – in combination with the re-employment of JDH workforce – to restore associational rights at Russell's other factories in Honduras. The WRC may also make additional recommendations, as

needed. With respect to many elements of the program, worker representatives will have the fullest understanding of how to shape each remedial measure in the way that will be most meaningful to workers. It will therefore necessary for the CGT to be involved in the development of the remedial program and specific plans for implementation.

We continue to hope that Russell will reconsider its approach to this case and recognize its obligation to remediate the labor rights violations at JDH and to address the impact of those violations at its other production facilities in Honduras.