



WORKER RIGHTS CONSORTIUM

Case Summary: Confecciones Gama (El Salvador)

November 25, 2013

This memorandum summarizes the remediation achieved by the Worker Rights Consortium and other stakeholders following violations that occurred at Confecciones Gama, a sewing facility in Soyapango, El Salvador. In June 2011, Confecciones Gama closed its sewing operation, which resulted in the immediate dismissal of 239 workers. The workers were paid part but not all of the terminal benefits that were owed to them in accordance with Salvadoran law. Confecciones Gama also operated and, as we understand, continues to operate a small textile operation; these workers were not affected by the closure.

At the time that the sewing operation was closed, the factory was producing subcontracted orders for a factory known as Intradesa, owned by Intradeco Holdings, on behalf of the brands Fruit of the Loom and Walmart. This memo summarizes labor rights violations surrounding the closure of the facility and the remediation that occurred following the intervention of Fruit of the Loom and Intradeco Holdings.

Relationship to League Collegiate Wear

At the time of closure, Confecciones Gama was disclosed as a producer of licensed collegiate apparel by League Collegiate Wear (“League”). However, both League and workers in the factory stated that League was not producing apparel at Confecciones Gama in the months preceding the closure. According to workers, League had not had a significant presence in the factory since 2009.

It is concerning that League continued to list Confecciones Gama long after the company apparently stopped doing business with the factory. Confecciones Gama continued to appear in the disclosure data provided to the WRC as a League supplier of licensed apparel in 2011 and in 2012. Indeed, League’s most recent disclosure data (dated October 2013) continues to list Confecciones Gama as a supplier, even though the sewing facility ceased operations more than two years prior to the date this data was released. The WRC reminded League of this inaccuracy in April 2013; League did not provide a substantive response.

When licensees indicate that a certain factory is a provider of licensed apparel, it provides the workers at this facility with a reasonable expectation that they are protected by collegiate codes of conduct and have recourse to appropriate remediation in the case of violations. This expectation confers an obligation on the licensee to address code violations that arise while the factory is disclosed. However, in this case, the code violation has been remedied by other buyers, rendering the question of League’s obligations moot.

Failure to Pay Full Severance

Upon learning of the factory's decision to discontinue its sewing operation on June 18, 2011, and the owner's unwillingness to pay the workers the severance they were owed, the union that represented the majority of Confecciones Gama's workers, the *Sindicato de Trabajadores por Empresa Confecciones Gama*, brought a complaint to the WRC. After several days of worker protest at the factory's gate, the owner, Mr. Jaime Gadala Maria, agreed to pay his employees 80% of what they were legally due. The workers were owed a total of approximately \$715,000 and Galdala Maria paid his workers a total of approximately \$504,000.¹

Worth mentioning given its significance in the Salvadoran context is the fact that the complainant union, which had been present at Confecciones Gama for many years, had just begun the process of collective bargaining with management at the time that the closure occurred. The union had only recently achieved representation of more than 50% of the workers, which is required by Salvadoran law in order to enter into the bargaining process. Although the WRC did not discover evidence clearly linking the closure to the fact that the union had reached the bargaining table, the timing of the closure was of particular concern to the union. Had these negotiations successfully concluded, this would have represented the only collective bargaining agreement in a Salvadoran garment factory.

Discrimination Against Former Gama Workers

An additional violation of labor rights that was brought to the WRC's attention by the union at Confecciones Gama is the blacklisting that has occurred following the closure of this facility. The factory's workers have repeatedly attempted to find new employment at other garment factories but, upon informing the hiring department of their employment history, have been denied employment or removed from the factory during their probationary periods. The Salvadoran garment sector is notorious for the practice of blacklisting workers. In some cases an actual physical list is circulated among factory owners with the names of workers who have participated in a union or who have been labeled as potential "trouble makers." In other cases, no paper list exists, but employers choose to "blacklist" former employees of certain factories based on their knowledge about events at those factories. In this case, the fact that the union had reached the bargaining table with its employer may have been cause enough for employers to avoid hiring the former Gama employees.

A May 2012 study conducted by the *Centro de Estudios y Apoyo Laboral* (CEAL) documented the cases of more than 20 former employees of Confecciones Gama who were rejected for employment by factories owned by and supplying to university licensees, including factories supplying to and wholly owned by Fruit of the Loom. CEAL also documented the cases of approximately 80 workers who were denied employment at non-collegiate facilities. In a significant number of cases, workers were specifically told that they were on a list or that the plant was not hiring workers who had been employed at Confecciones Gama. At least three

¹ A subsequent WRC review of Gama's actual obligations and the amounts paid indicates that the overall percentage paid was actually closer to 70%. The percentage paid to each worker varied.

workers were hired and began employment at other facilities, but were terminated during their first month and then specifically told that they were being let go because former Gama employees were not wanted at those factories.

Remediation

At the time that the employees' contracts were terminated, the factory was producing subcontracted orders for Intradesa. These orders were split approximately evenly between Fruit of the Loom and Walmart. When contacted by the WRC, Fruit of the Loom committed to engaging with the company's owner and with its own direct supplier, Intradeco Holdings. Walmart initially responded to information requests from the WRC but ultimately ceased being responsive and did not play a role in resolving the case.

After several months of engagement between Fruit of the Loom and Intradeco Holdings, Intradeco agreed to pay workers the remaining amount of their severance in order to remediate the violations of the workers' rights committed by Confecciones Gama.

On Friday, December 28, 2012, the former employees of Confecciones Gama convened at the offices of the Salvadoran Industrial Association to receive payment of the remaining amount of money owed to them. The sum to be paid to each worker was calculated based on the total amount of terminal benefits as calculated by the Salvadoran Ministry of Labor at the time of the closure minus the amount that was paid to each worker in June-July 2012, information that was also officially recorded by the Ministry. Intradeco verified the identity of each worker and then paid the worker via check. The WRC and the union attended to observe the process. Two hundred and thirty-nine workers received their checks in December 2012 and January 2013; the total amount paid to workers was \$200,750.

In addition, Fruit of the Loom agreed to take steps to address the blacklisting documented by CEAL. The company committed to reaffirm the company's policy of non-discrimination and to instruct the management of its factories and supplier factories in El Salvador to treat applications from former Confecciones Gama workers equally with other applications.

The payment of funds by Intradeco Holdings at the encouragement of Fruit of the Loom represents a remediation of the violation of Salvadoran law and codes of conduct committed by Confecciones Gama when it failed to pay the full amount of severance due to its workers at the time of their termination. These funds constitute an important source of income to the workers and their families, especially given the difficulties that the workers have encountered in finding new employment. The WRC recognizes the role of both Fruit of the Loom and Intradeco Holdings in remediating the violations.