



WORKER RIGHTS CONSORTIUM

To: WRC Affiliate Universities and Colleges
From: Scott Nova and Jessica Champagne
Date: April 17, 2015
Re: El Salvador Update and Remediation at Impression Apparel

Introduction

In January, the WRC published *Unholy Alliances*, a joint report with the Center for Global Workers' Rights at Pennsylvania State University on patterns of violations of workers' associational rights in the Salvadoran garment industry.¹ These trends include the collusion of factory owners and managers with an array of illegitimate, corrupt, and even violent organizations. These organizations include "company unions" that are created, supported, and controlled by the employer, the labor federation known as the Federacion Nacional Sindical de Trabajadores Salvadorenos (Fenastras), and violent street gangs. All three kinds of organizations are employed by factory owners to thwart independent labor organizing in the Salvadoran garment sector.

The WRC shared the report with all licensees producing collegiate apparel in El Salvador. Six licensees responded to the WRC stating that they will incorporate the WRC's recommendations into their code of conduct compliance programs and supplier factory audits. The WRC has also shared the report and recommendations with Salvadoran factories disclosed as producing collegiate apparel.

Since the report was released, the WRC has already worked with one licensee, Tailgate Clothing Company, to take key steps at a supplier factory to address violations typical of those described in the report. On February 18, less than one month after the report was published, the WRC received a complaint from the Federacion Sindical de El Salvador (FESS) stating that, in January 2015, a Salvadoran garment factory known as Impression Apparel illegally fired three union leaders, all of whom were protected under Salvadoran law from dismissal without prior government authorization. Workers also alleged that Impression Apparel management was colluding with the union federation Fenastras, a corrupt labor federation, which is, as the January report documents, actively working to prevent workers from joining or forming independent union organizations.

¹ Worker Rights Consortium and Pennsylvania State University Center for Global Workers Rights, *Unholy Alliances: How Employers in El Salvador's Garment Industry Collude with a Corrupt Labor Federation, Company Unions and Violent Gangs to Suppress Workers' Rights*, January 22, 2015, <http://workersrights.org/freports/Unholy%20Alliances%20-%20January%202015.pdf>.

After completing an investigation including interviews with key witnesses and a review of documentary evidence, the WRC found that Impression Apparel had illegally terminated the workers serving as FESS union leaders. The WRC recommended that Tailgate intervene with the company to ensure that the violations were remedied, including reinstatement of the workers to their former positions and payment of back wages from the time of dismissal to the date of reinstatement. The WRC is pleased to report that Tailgate responded promptly to the request of the WRC to intervene and successfully pressed Impression Apparel to reverse the terminations.

As this case demonstrates, licensees will have to be diligent and persistent in their monitoring and engagement with suppliers in order to eliminate employer collusion with corrupt and even violent organizations to suppress workers' organizational rights. The test of these commitments will be in whether there is ongoing attention to these issues and change at the factory level.

The WRC will continue to monitor the issues outlined in the report and similar issues in other apparel producing countries.

Impression Apparel

The Impression Apparel garment factory, located in Soyapango, El Salvador, produces collegiate licensed apparel for Tailgate Clothing Company and non-collegiate apparel for Gap/Old Navy, Hybrid, Target and Walmart.

In February 2015, the FESS union federation reported to the WRC that, on December 18, 2014, members of its garment-sector union, the Sindicato de la Industria Textil Salvadoreña (SITS), elected a new leadership committee. According to Salvadoran law, upon election to union leadership, all seven workers were granted protected status; the law prohibited the employer from dismissing any of these workers without first obtaining authorization from the Salvadoran authorities.²

According to worker testimony, on January 23, 2015, three of these workers were called into the human resources office at Impression Apparel and dismissed. Given the fact that, unless the company were to obtain authorization from a relevant labor authority, the workers were protected from dismissal by the Salvadoran Labor Code, the dismissals of the three workers represented a violation of law and, subsequently, of university codes of conduct.

Of further interest given its relevance to the WRC's report on freedom of association and management's role in limiting independent worker organizing, is the role played by Fenastras at Impression Apparel. The union reported to the WRC that, of the seven newly-elected officials, four had recently decided to cut their membership ties with Fenastras and join the SITS union. The workers gave testimony to the WRC as to the reason for their decisions to leave one union and join another. They stated that, when they first joined Fenastras, the union and its leadership

² Article 248 of the Salvadoran Labor Code prohibits the employer from unilaterally dismissing members of the union leadership committee during their terms of service and for one additional year after service, a protection known in El Salvador as *fuero sindical*. Under this law, workers who are members of the union leadership can only be terminated for cause with specific permission from Salvadoran labor authorities.

were helping to make some improvements in the workplace. However, in the year prior to the their decisions to withdraw from the union, the national head of Fenastras, Juan Jose Huezo, was no longer responsive when the workers brought workplace issues to his attention. When they asked for him to assist them in addressing the issues with management, his response was that they should “settle down.” Furthermore, the workers began to have doubts about Huezo’s motivation when, as one worker reported, Impression Apparel’s human resources manager, in response to a request to address workplace issues, told the union “unfortunately the workers are no longer the ones who are profiting from this union.” While the manager did not specifically state that the Fenastras union was receiving pay-offs in exchange for not addressing workplace issues, this was the union’s interpretation of her comment.

At the time that the three SITS leaders were illegally dismissed from the factory, the union reported that one of the three was informed by the human resources manager that the company was firing her in response to instructions it received from Fenastras leader Juan Jose Huezo. The worker understood this to be in retaliation for her decision to leave Fenastras and join SITS.

This testimony, along with Fenastras’ pattern of abuses, raises serious concerns that the terminations were, in fact, motivated by the workers’ decision to resign from Fenastras and to join and take up leadership in the SITS union.

In order to address the violations, the workers and their representatives held meetings with Impression Apparel’s legal council on February 18 and 26. At the second meeting, having consulted with the company’s managers, the factory’s legal advisors told the workers that they had two choices: to continue to receive their salaries but without being allowed to enter the factory *or* to agree to the terminations in exchange for a significant severance package equivalent to the time of their protected status (the full year of their service as union leaders plus an additional year).

Both of these strategies, which are frequently implemented by garment factory managers, are cited in the WRC’s January report on freedom of association as insufficient remedies to the illegal dismissal of union members. While the company’s proposed remedies do not violate Salvadoran law, both proposals serve to intentionally interfere with workers’ rights to benefit from the union representation of their choosing, by removing the worker-leaders from the workplace. They thereby violate workers’ right to freedom of association, as expressed in university codes of conduct and other international standards.³

The union responded to the company’s legal council that it was not satisfied with these proposals and that it was pursuing full remediation, including the reinstatement of the workers to their former positions with full payment of lost wages from the time of dismissal to the date of reinstatement.

The WRC contacted Impression Apparel regarding the investigation on February 20, but did not receive a substantive response. Given Impression Apparel’s unwillingness to remedy the violations in an appropriate manner, the WRC asked that Tailgate, as the university licensee

³ *Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO*, Fifth Edition (2006), Number 858, International Labour Organization.

reporting a business relationship with Impression Apparel, press the supplier to fully remedy the violations. Tailgate acted swiftly to urge the factory to acknowledge the violations and take the proper steps to remedy them.

On March 5, the FESS union federation reported to the WRC that the company had made efforts to offer reinstatement to all three workers. One of the three workers had returned to work and received full payment of her back wages from the time of her dismissal to the date of her reinstatement. The WRC was not able to contact the other two workers, who had cut off contact with the FESS.

The WRC commends Tailgate for taking prompt action to engage the factory and remedying the violations. The WRC has recommended that Tailgate continue to monitor developments related to freedom of association at the facility to ensure that factory management complies with the recommendations in our report.

Licensee Responses to *Unholy Alliances*

The WRC contacted 30 collegiate licensees disclosing production at 28 Salvadoran garment factories regarding the *Unholy Alliances* report, asking each licensee to report on the steps they will take to ensure that their suppliers in El Salvador are in compliance with the recommendations outlined in the report.

The following licensees provided satisfactory responses, indicating that they were communicating with their factories regarding the report and integrating the recommendations into their auditing processes: Tailgate Clothing Company, Hanesbrands, Gear for Sports (including Under Armour by Gear for Sports), Fruit of the Loom (parent company of licensee Russell Athletic), and VF Imagewear. Fruit of the Loom also reported that it was already developing plans to provide training for local management and workers on freedom of association, including the issues described in the report. Adidas stated that its monitoring program already includes these issues.

Three licensees responded, but did not indicate that they would be integrating the recommendations into their compliance program. College Kids provided an update as to its engagement to address related freedom of association issues at the Style Avenue factory in El Salvador over the past four years.⁴ The company did not, however, address whether it would integrate recommendations into its broader compliance program.

Global Fashion Works (Flying Colors) reported that it was no longer producing at the facility it disclosed for El Salvador. The company did not offer an adequate explanation as to why the factory had been disclosed for more than a year after the relationship was reportedly terminated in 2013, but has now removed the factory from its disclosure data.

The Game stated that it performed regular audits at its supplier and directly owned facilities, but did not state any plans to address these specific issues and recommendations.

⁴ See, "WRC Update: Style Avenue (El Salvador)," July 6, 2012, <http://www.workersrights.org/university/memo/070612.html>.

A number of licensees, including Outerstuff and MJ Soffe, failed to respond.

The commitment made by the six licensees named above to address the issues outlined in our report is a positive step. Given the complexities of the relationships between management and the organizations that serve to deter workers' freedom of association, licensees will have to be diligent and persistent in their monitoring and engagement with suppliers in order to eliminate these relationships. The test of these commitments will be in whether there is ongoing attention to these issues and change at the factory level.

The WRC will continue to monitor the issues outlined in the report and similar issues in other apparel producing countries.