



## WORKER RIGHTS CONSORTIUM

To: Chris Champion, Russell Athletic  
From: Scott Nova, Worker Rights Consortium  
Date: October 22, 2007  
Re: Code of Conduct Violations at Jerzees de Honduras

As we have discussed over email, the WRC has concluded that illegal firings took place at Jerzees de Honduras. This memo briefly outlines the events at this factory, the basis of our findings, and the remedial action that is required. Regardless of any other review Russell is conducting, reinstatement for the fired Jerzees de Honduras workers should commence immediately. The logistical details should be worked out with the union.

A full report on these firings will be released in the near future. We would like to be able to report in this document that Russell has agreed to reinstate these workers and that reinstatement is underway or has been completed.

### **Background**

The WRC undertook an investigation of practices at Jerzees de Honduras in response to a complaint submitted to the WRC by worker representatives. The WRC received the complaint while our investigator was in Honduras during mid-September to carry out our inquiry regarding alleged violations at Jerzees Choloma.

The principle allegation identified in the worker complaint was that Jerzees de Honduras fired workers in retaliation for the workers' decision to join a union. The allegations concerned the alleged unlawful dismissal of 25 union members during July 2007. The WRC concluded on the basis of overwhelming evidence that the company did fire the workers in question in violation of applicable codes of conduct and Honduran law.

Note that information in this memo has not gone through the WRC's final fact-checking process. Thus it is possible that some details (e.g., the spelling of names, exact dates) may be revised prior to the WRC issuing its public report. Such revisions would not materially change the conclusions outlined here.

### **Chronology of Key Events**

The following is a chronology of key events regarding the dismissal of the workers in question:

- During late June, workers held a founding assembly to establish a union associated

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5 Thomas Circle NW Fifth Floor Washington, DC 20005

(202) 387-4884 Fax: (202) 387-3292

wrc@workersrights.org www.workersrights.org

with the national union federation known as FITH-FESITRADEH. More than ninety workers participated.<sup>1</sup>

- On July 4, the union prepared an *acta* (a legal notice) that listed 106 founding members to be submitted to the Ministry of Labor and the factory. The WRC obtained a copy of this document.
- On July 10, the union submitted the *acta* to the Ministry of Labor. On the same day, one or more union representatives and a Ministry of Labor inspector attempted to formally notify the company of the union's formation. Loessy Barrera, a company legal advisor, was the factory's representative assigned to meet with the group. Due to recent prior experiences with Ms. Barrera (see the WRC's Jerzees Choloma report), the Ministry inspector thought that Ms. Barrera was not in fact the legal representative for the company for the purposes of the notification and thus refused to move forward with the signing.
- On the same day, July 10, the factory fired 10 of the union's founding members. The date listed on the *constancias* provided to these workers is July 9, but evidence indicates that the actual dismissals occurred on July 10. In any case, the distinction is not material.
- On the following day, July 11, the union succeeded in formally notifying the factory of the union's formation. On this day, roughly seven of the founding unionists who had been fired the previous day accompanied a Ministry of Labor inspector in a second attempt to notify the factory. The factory again sent Loessy Barrera to meet with the group. Ms. Barrera met the group in the industrial park office. According to worker testimony, she signed two copies of the *acta* acknowledging official notification, including one for the Ministry. Ms. Barrera then took the third document, which listed the names of all the union's founding members, and ripped it in two, stating that she was doing so because she was not the official legal representative and thus could not formally accept the notification. She then took the two pieces of the list with her as she went back to the factory.
- On that same day, July 11, the Honduran Labor Ministry gave the union a document establishing that "*proteccion del estado*" was in effect for the founding members of the union whose names had just been presented to the factory. The document listed the names of 82 founding members. This meant that these workers, as of July 11, could not be fired for any reason without the prior approval of the government.
- On or around July 17, the factory fired nine more founding members of the union. The *constancias* given to the workers listed July 16 as their last day, but we believe the dismissals occurred the following morning.

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<sup>1</sup> It bears noting that we understand that the plant-level union at the factory may be in the process of changing its affiliation to a different national union federation, known as CGT.

- On or around July 24, the factory fired six more founding unionists. Once again, the *constancias* provided to workers state that their last day was July 23, while it appears that the dismissals occurred on the 24<sup>th</sup>.
- In total, the factory fired at least 25 founding union members over the course of a two-week period. According to testimony provided by current employees of the factory, and fired workers, only a small number of non-union workers were fired on the dates on which the firings of the union members took place.

## **Findings**

The facts in evidence constitute overwhelming proof that the firings of these 25 workers were retaliatory:

- The founding unionists represented roughly 6% of the factory's workforce, but constituted the overwhelming majority of workers dismissed during the period in question.
- The timing of the firings coincides closely with the union's formation and its effort to seek legal status.
- According to credible testimony from numerous workers, managers made a series of statements indicating strong hostility to unionization and a determination to ensure that workers would never succeed in unionizing.

It is also important to note that the firings of union members that occurred after July 11 were illegal regardless of management's motivation, because these workers enjoyed *proteccion del estado* at the time of their dismissals.

## **Remedial Action**

The fired workers have a right under university codes of conduct to immediate reinstatement, with back pay and with no loss of seniority. Reinstatement and compensation for the Jerzees de Honduras workers should be carried out in a manner consistent with the recommendations made by the WRC concerning the workers fired from Jerzees Choloma. Note that we sent you a list of the fired workers on October 9.

It is imperative that these reinstatements be initiated without delay. There is no need or justification for Russell to delay reinstatement until the company completes a comprehensive review of dismissals at all of its facilities. Both the facts and the proper remedy are clear. Delay at this point will compound the violations that have occurred and reduce the chances that full remediation can be achieved.