

WORKER RIGHTS CONSORTIUM FACTORY ASSESSMENT ALL-SPORTZ APPAREL (DOMINICAN REPUBLIC)

FINDINGS, RECOMMENDATIONS, AND COMPANY RESPONSE

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I. Executive Summary

This report outlines the WRC's findings and recommendations concerning violations of workers' right to freedom of association at the All-Sportz Apparel ("All-Sportz") factory in the Dominican Republic, as well as the steps that the company has committed to take to remedy these violations. All-Sportz is located in Santiago, the country's second-largest city, and employs approximately 600 workers.

All-Sportz has been disclosed as a supplier of collegiate licensed apparel marketed under the brand name, "All Star Sports", by the university licensee, Varsity Brands, and its subsidiary, Varsity Spirit Fashion and Supplies ("Varsity"). Varsity's licensing agreements with universities obligate Varsity to ensure that All-Sportz complies with university codes of conduct for production of collegiate licensed apparel, which, in turn, require factories supplying such goods to adhere to local labor laws,¹ in this case those of the Dominican Republic, and to respect fundamental worker rights, including the right to freedom of association,² as established under international labor standards.³

The WRC initiated an investigation of freedom of association violations at All-Sportz in response to a complaint submitted to the WRC by workers at the factory who had recently established a "Union Formation Committee" (*Comité Gestor Pro-Constitución del Sindicato*), under Dominican law, a precursor body to a factory-level union, which is affiliated to the Dominican labor federation, UNATRAZONAS-CNTD.

The WRC first contacted All-Sportz concerning the workers' complaint in May 2019 but did not receive a response from the factory owners until August 2019, after the WRC had also contacted Varsity, the university licensee that had disclosed the factory as a supplier. Subsequently, All-Sportz did engage directly with the WRC by providing written responses to the WRC's findings, through telephone and email communications between the factory's US owner Ron Pinkerton and the WRC, and by facilitating face-to-face interviews that the WRC conducted with members of the factory's local management team in November 2019. Moreover, as discussed below, All-Sportz did ultimately commit to take the measures that the WRC determined are necessary to correct violations of workers' freedom of association rights at the factory.

As discussed in this report, the WRC's assessment of All-Sportz found the following violations of workers' right to freedom of association under university codes of conduct, Dominican labor law, and international labor standards:

- All-Sportz managers and supervisors threatened workers with termination, blacklisting, violence, and plant closure in retaliation for exercising freedom of association rights;
- The factory financially penalized several workers and discriminatorily fired one other employee for engaging in associational activities;

¹ Collegiate Licensing Company (CLC), Special Agreement Regarding Labor Codes of Conduct ("Licensees must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the production or sale of Licensed Articles.").

² CLC, Special Agreement, ("Licensees shall recognize and respect the right of employees to freedom of association and collective bargaining.").

³ International Labour Organization Conventions 87 ("Freedom of Association and Protection of the Right to Organise") and 98 (Right to Organise and Collective Bargaining).

- Managers and supervisors physically and socially isolated several pro-union workers and engaged in conduct that violated personal privacy of another worker in order to suppress the exercise of freedom of association; and
- All-Sportz interfered with freedom of association at the factory by paying and permitting non-union employees to engage in anti-union activities on company time and providing them with other material support for the same purpose.

Each of these findings is reviewed in detail in Section III of this report. The report also details the recommendations for remediation of these violations that the WRC made to All-Sportz and Varsity and the commitments that the factory has now made to implement these recommendations.

When the WRC initially engaged with All-Sportz to seek the company's commitment to remediate the violations outlined above, the factory management responded that it disagreed with the WRC's findings and, therefore, declined to implement the remedial measures the WRC recommended. However, after the WRC also engaged with Varsity, the factory's owner, to his credit, ultimately committed to implement these corrective actions. Consistent with this commitment, All-Sportz and Varsity have worked constructively with the WRC to finalize a corrective action plan by which the factory will implement the WRC's remedial recommendations, the details of which are also described in this report.

II. Methodology

The findings in this report are based on the following sources of evidence:

- Detailed interviews with workers who are current members of the Union Formation Committee at All-Sportz, which were conducted in offsite locations chosen by the employees;
- Written communications with representatives of All-Sportz's management including the company's owner and CEO, Ron Pinkerton, and its General Manager, Gemma Castro;
- Face-to-face interviews with the following members of All-Sportz's management: Gemma Castro, General Manager; Glenn Ramos, Production Manager; Sally Rodriguez, Human Resources Manager; Rita Sanchez, Production Coordinator; and Mabel Marrero, Social Compliance Manager;
- A review of relevant documentation and photographic evidence, including worker paystubs, documents issued by the Dominican Ministry of Labor and the Dominican Public Ministry, and photographs and news reports of a press conference held outside the factory gates on September 16, 2019; and
- A review and analysis of applicable Dominican labor laws.

III. Findings and Company Response

The WRC found that, in early 2019, workers at All-Sportz established a Union Formation Committee (*Comité Gestor Pro-Constitución del Sindicato*), a legal step toward establishing a union at the factory. The Union Formation Committee was registered by the Dominican Republic's Ministry of Labor on February 15, 2019, and the factory was subsequently notified by the authorities of its formation.

Both Dominican law and university labor standards for the production of collegiate licensed apparel protect the right of workers to freedom of association⁴ and prohibit employers from retaliating against employees for their exercise of this right,⁵ which includes participating in activities to form and establish a union. Employees who are members of the Union Formation Committee reported and, as discussed below, the WRC's independent investigation confirmed that after the legal creation of the Union Formation Committee in February 2019, All-Sportz's management committed a series of serious violations of workers' right to freedom of association. Below, each of these violations is discussed in detail, and an assessment of both the evidence gathered from workers and the factory management's response concerning these incidents is provided.

A. Causing supervisors to threaten employees with retaliatory termination and blacklisting

The WRC found that, immediately following their being notified of the Union Formation Committee's registration in February 2019, factory managers held at least two meetings with the plant's floor supervisors during which supervisors were made to understand that they should inform workers that joining the union would result in the employees' dismissal and subsequent difficulty finding work at other garment factories (i.e. blacklisting, which has been cited by the US State Department as a frequent practice of Dominican employers⁶).

In a written response to the WRC, All-Sportz's management acknowledged that it met with supervisors in February 2019 concerning the registration of the Union Formation Committee. However, factory management initially claimed that the purpose of these meetings with supervisors was to inform them of the Union Formation Committee's founding and to instruct supervisors to support the process and to reinforce the company's policy on freedom of association.

The factory management reiterated this claim in the face-to-face interviews that the WRC conducted in November 2019. The factory's General Manager, Gemma Castro, claimed to the WRC that all of the factory's supervisors were instructed to remain neutral with regard to the formation of the union and to refrain from negative comments about the union. The WRC notes that, if this were an accurate description of the factory management's policy on unionization, it would be highly exceptional, since Dominican law does not require such strict neutrality, and the WRC is not aware of any factory in the Dominican Republic—with the exception of the Alta Gracia Apparel factory, which was established in cooperation with local trade unions—that has ever taken such a position prior to a union being established.

Available evidence indicated, however, that this was not actually All-Sportz's policy toward workers' associational activities that was conveyed at this meeting. According to testimony gathered by the WRC, the message delivered by management was that it was the job of the supervisors to threaten workers with dismissal and blacklisting in order to convince them not to participate in the union. Moreover, as detailed below, on multiple subsequent occasions, factory managers and supervisors engaged in precisely this conduct—discouraging workers' participation in the union through threats of termination and blacklisting and, in one instance, threatened physical violence.

⁴ Constitution of the Dominican Republic, Article 47 and CLC Special Agreement, Schedule I, § II(B)(9).

⁵ Labor Code of the Dominican Republic, Article 333(2) and CLC Special Agreement, Schedule I, § II(B)(9).

⁶ US State Department, Dominican Republic: 2018 Human Rights Report, 25-26 (“Companies reportedly fired workers for union activity and blacklisted trade unionists, among other anti-union practices.”), <https://do.usembassy.gov/wp-content/uploads/sites/281/Dominican-Republic-2018-Human-Rights-Report.pdf>.

B. Directly threatening employees with retaliatory termination and blacklisting for associational activity

The WRC found that, in late February 2019, soon after company managers were notified of the Union Formation Committee's establishment and met with supervisors to discuss how to respond, All-Sportz's Production Manager, Glenn Ramos, personally threatened one of the members of the Union Formation Committee that, if the latter did not resign from the committee, Ramos would ensure that the worker would not be able to find employment in any other free trade zone factory.

The worker reasonably interpreted this statement, which was explicitly a threat of blacklisting, to also represent an implicit threat of dismissal on account of his membership in the Union Formation Committee. The WRC observed that this was the exact same threat that the factory management reportedly had directed the plant's supervisors to deliver to workers who were participating in union activities. As mentioned above, the threat of blacklisting is a very credible and serious one in the context of Dominican employment relations.⁷

When first questioned by the WRC concerning this incident, the factory management responded by stating that some members of the Union Formation Committee had approached factory managers to ask how to resign from the committee. The factory management related that its response to these inquiries has been to inform workers who allegedly made such inquiries that management cannot become involved in any process related to the functioning of the union (which the Union Formation Committee seeks to establish).

During the WRC's subsequent face-to-face interview with the production manager in November 2019, Ramos reiterated the company's claim that the Union Formation Committee member had asked him how to leave the committee. Ramos told the WRC that his response to the worker was to state, "You are an adult, you are free to make your own decisions", and to tell the latter that he could be a part of the committee, "but you have to produce" (i.e., work productively).

Ramos's statement conflicted with the worker's testimony concerning the incident, which gave no indication that the worker met with the manager in order to inquire how to resign from the Union Formation Committee. The worker's testimony, as noted, was that he sought a meeting with Ramos in order to request payment of production bonuses that the worker had earned. While the worker was speaking with Ramos about this issue, the latter reportedly urged the worker to end his membership in the committee and told the worker that, if he did not do so, Ramos would take steps to ensure that the worker would not find employment in any other free trade zone factory.

The worker's version of the conversation was completely credible and logical—and consistent with other evidence. The worker testified that he approached the manager, Ramos, about an ordinary employment-related issue, payment of production bonuses. Indeed, when interviewed by the WRC, the factory's General Manager, Gemma Castro, specifically identified Ramos as the appropriate manager with whom workers should raise such issues.

Moreover, the worker's account of the conversation with Ramos was consistent with the timing of other events at the factory, as it occurred directly after: (a) the worker, along with other employees, established

⁷ US State Department, Dominican Republic: 2018 Human Rights Report, 25-26.

the Union Formation Committee; (b) the Dominican Ministry of Labor notified the management of this development; and (c) Ramos and other factory managers had held a meeting with supervisors to discuss how to respond to the creation of the Union Formation Committee, in which managers reportedly were told to tell workers that unionization would result in loss of employment and blacklisting. Indeed, the worker testified that when, shortly thereafter, the manager, Ramos, was approached by the employee, Ramos responded with precisely this threat.

By contrast, Ramos's and the factory management's account of the conversation was illogical and implausible. Ramos's claim was that one of the workers who had just voluntarily joined a committee to *form* a union at the factory approached Ramos, on his own initiative, to ask how to *leave* the union. Ramos further claimed that he responded to the worker's supposed question ('how to leave the union'), with the statement, "you are free to make your own decisions"—a complete *non sequitur*. Even by Ramos's own account, the worker never asked *whether* he could or should leave the union but, instead, *how* to leave the union. In fact, the worker's alleged question, 'how to leave union', presupposed that the worker already knew that whether or not to leave the union was his own decision to make *and* already had made the decision to do so, rendering Ramos's purported response superfluous and nonsensical.

Ramos also claimed that he told the worker that he could be a part of the union, "but you have to produce." This statement is another *non sequitur*. Why would a supervisor approached by a worker who supposedly wanted to know how to *leave* a union reply by telling the worker the condition on which the worker *could* be part of the union (i.e., that the worker still "had to produce")? According to Ramos, the worker already *knew* he could be part of the union—what he supposedly wanted to know was how to *not* be part of the union. Again, the WRC found no logical connection between Ramos's version of how the conversation with the worker was initiated, and Ramos's purported response to this employee.

The WRC concluded, therefore, that the worker's account of the conversation, and Ramos's threat of retaliation, was accurate and credible and that Ramos's and the management's account, was a fabrication. Accordingly, the WRC found that the factory's Production Manager, Ramos, threatened the worker with retaliatory termination and blacklisting for the latter's union activity, which was a serious violation of associational rights.

C. Threatening employees with retaliatory closure of the factory for associational activity

The WRC also found that, shortly after the incident described above, the factory's General Manager, Gemma Castro, also threatened other workers that, if they persisted in this activity, the factory could close, i.e., another threat of job loss. Specifically, the WRC received testimony that, in early March 2019, two employees, one of whom is a member of the Union Formation Committee, met with Castro, concerning a payroll issue affecting the other employee (who is not a committee member). During this meeting, Castro challenged the committee member to state on what authority he was addressing a workplace issue affecting another employee.

The Union Formation Committee member reportedly responded to Castro by telling her that he was exercising his right as a member of the committee to represent another worker. Upon hearing this, Castro reportedly became upset and shouted at the worker that the factory's owner could close the factory whenever he chose. After this outburst, however, Castro reportedly apologized to the two employees for shouting at them.

When questioned by the WRC concerning this incident, the factory management first responded in writing by stating that Castro met with the two employees in order to introduce herself and to discuss the importance of communication and cooperation. As noted above, this claim was contradicted by testimony indicating that the two employees met with Castro in order to address a payroll issue concerning one of the workers.

As Castro is the factory's General Manager, the WRC found the workers' account of the conversation, that the employees sought the manager out to discuss a payroll issue, to be credible, as payroll matters are a common topic in employee-management relations. By contrast, the WRC did not find plausible the management's explanation for the meeting—that Castro, the plant's General Manager, instead, sought out the employees for a meeting simply to discuss the importance of communication and cooperation—as the company offered no explanation for why the general manager would select these two workers out of the plant's 600 employees to discuss this abstract subject. Furthermore, even if Castro's goal in supposedly seeking out these workers was, as she claimed, to discuss with the members of the Union Formation Committee the importance of communication and cooperation, it did not explain why Castro would have this discussion with just these two workers, only of whom was actually a committee member, rather than with the Union Formation Committee members as a group.

When the WRC interviewed Castro in November 2019, she told the WRC that workers should first take payroll issues to their supervisor (in this case, Glenn Ramos) or representatives of the human resources department. While the WRC does not take objection with Castro's description of how workers *should* raise payroll issues, and while this may have partially explained her negative reaction to the two employees having raised these issues with her, it does not make the company's account of how the conversation with the two workers was initiated any more credible.

Castro also told the WRC that she had met with employees who are Union Formation Committee members on several occasions. She stated that, in these meetings, she stressed the importance of open communications and ensuring timely delivery of quality products to customers and reminded workers that if the latter objectives are not met, all employees' jobs would be in danger.

It was plausible that, since she referred in her interview with the WRC to multiple conversations with the Union Formation Committee members, Castro has, in subsequent meetings with the latter, made statements concerning the importance of open communications and customer satisfaction that are limited to those she described. Such statements, if made in a general context of respecting employees' associational rights, are similarly unobjectionable.

However, the specific statement Castro was reported to have made in the February 2019 incident, particularly given the context in which she made it, was significantly different—and far more threatening—in nature. First, Castro's reported February 2019 statement did not mention either the need for open communication or the centrality of the factory's customer relationships—it was, instead, a bare assertion of the factory owner's absolute power to close the plant whenever he wished. Second, Castro made this statement about the power of the factory owner to close the plant in the context of *rejecting* an employee's attempt to exercise associational rights—shouting at a Union Formation Committee member in anger when the latter attempted to raise a payroll issue on behalf of another employee.

The attempts by Castro and the company to paint her February 2019 conversation with the two employees, *post facto*, in a less objectionable light were unconvincing. Although, according to the workers, Castro reportedly apologized quickly for shouting at them, her statement still conveyed a threat

of potential job loss if workers continued to exercise their associational rights. Moreover, Castro's apology for her outburst did not negate this threat, as the actual threat concerned potential adverse action by the factory's owner (i.e., closure of the factory) and not by Castro, herself. As a result, Castro's statement constituted another retaliatory threat that violated workers' freedom of association.

D. Threatening workers with violence in retaliation for associational activity

In March 2019, the factory's plant coordinator, a manager named Andy, reportedly told one of the members of the Union Formation Committee that a group of other employees was eager to "lynch" the committee member and that these employees would attack and physically beat the worker when the latter exited the factory that day. According to the worker's testimony, the manager delivered this message in a threatening tone.

When questioned by the WRC concerning this incident, the factory management admitted that the plant coordinator had made this statement but claimed that this statement was made only after the latter had learned that some employees at the plant were strongly opposed to the formation of the union. The management also claimed that it had met with these anti-union employees, advised them of their coworkers' right to freedom of association, and informed the anti-union employees that any acts of violence at the factory would not be tolerated. The employees who are members of the Union Formation Committee confirmed that they had also been informed by the factory's Production Manager, Glen Ramos, that such a meeting had occurred, though they were not aware of what message the management had conveyed to the other employees.

The company's separate communications with anti-union employees, however, regardless of their content, do not negate the threatening nature of its plant coordinator's statement to the Union Formation Committee member that other employees planned to "lynch him". Notably, contrary to the message that the factory management claimed to have communicated to employees opposed to the union, the plant coordinator's statement to the committee member did *not* include any assurance that the company would prohibit other employees from committing violence against him or ensure that his associational rights would be protected.

As such, the factory management, at the very least, took advantage of the alleged threat of retaliatory violence against the Union Formation Committee member to attempt to cause the latter to fear for his physical safety if he continued to participate in associational activities. By doing this, factory management further violated workers' right to freely associate.

E. Violating workers' right to privacy to suppress union activity

Workers also informed the WRC that a factory supervisor named Ana reportedly called the family member of an employee who is part of the Union Formation Committee and told the family member that the employee should resign from the committee. A supervisor directing an employee, either directly or indirectly (e.g., through a family member), to abandon associational activities is a violation of freedom of association. The supervisor issuing this direction through a member of the worker's family is, moreover, an invasion of the employee's right to privacy outside the workplace.

When questioned by the WRC concerning this incident, the factory management confirmed that the supervisor, Ana, made the phone call in question but stated that she was not instructed by the management

to do so, a *de facto* acknowledgement that the communication was improper. The management indicated that the factory was providing training on associational rights which this supervisor was attending.

The management's response acknowledged that the supervisor's statement was improper but disclaimed responsibility for the supervisor having made it. An employer is responsible for the conduct of its supervisors toward employees regarding labor relations matters, however, regardless of whether or not this conduct is undertaken at the express direction of the employer.

In this case, however, the evidence supported the conclusion that the supervisor *was* instructed by the factory management to engage in conduct aimed at convincing workers to abandon their associational activities. In particular, this incident occurred after managers reportedly met with supervisors and instructed them to discourage workers from joining the union.

Moreover, members of the factory's management personally delivered the same message to workers—telling them to resign from the Union Formation Committee. Therefore, the WRC did not find the factory's claim that the supervisor's misconduct was not caused by factory management to be credible. As such, the supervisor's calling on the worker's family member to convince the worker to resign from the committee represented yet another serious violation of associational rights attributable to the company.

F. Socially isolating and financially penalizing workers in retaliation for associational activity

In early March 2019, approximately two weeks after employees established the Union Formation Committee, the five employees who made up its members were all reassigned from the various production modules in the factory where they previously worked to a single separate production module to which none of the factory's approximately 600 other workers were assigned. Once isolated from other workers in this separate production module (which, as discussed below, the company subsequently claimed was a "training module"), the committee members were economically punished, first, by not being assigned any work to perform and, later, by being assigned work under conditions where it was not possible to complete the task.

For several weeks after they were reassigned to the separate module, the Union Formation Committee members did not actually receive training or work assignments but were simply paid their base wages (which were significantly lower than their usual production-based pay) to sit at their production stations without engaging in any activity. Next, after several weeks of enforced idleness, the committee members were given production assignments. However, the factory management continued to deny them the technical assistance (supervision and auditing) and material inputs (pieces necessary to assemble finished garments) that the factory management ordinarily provides to sewing workers—without which the Union Formation Committee members were severely handicapped in completing the production quotas needed for them to earn bonuses.

This ongoing discriminatory treatment significantly reduced the Union Formation Committee members' wages. The WRC found that, during the period that the committee members were isolated in this production module, they received weekly wages that were, on average, between 215 pesos and 780 pesos (US\$4.20 – 15.15) below the amounts they earned weekly when they were assigned normally within the factory's general workforce.

Finally, in June 2019, after the WRC questioned the factory management about the latter's reassignment and isolation of the Union Formation Committee members, the company returned the five employees to

the plant's general workforce but did not compensate them for the loss in pay that the workers had experienced in the interim.

By means of this treatment, the five Union Formation Committee members were denied the opportunity not only to interact with other employees but also to meet company-established production goals and, thereby, earn the production bonuses ordinarily available to workers at the factory, which they relied upon to augment their base wages. By reassigning these employees, therefore, the company not only interfered with their associational rights by isolating them from other workers in the factory but also financially punished them by reducing their incomes.

When initially questioned by the WRC regarding the isolation of the Union Formation Committee members, the factory management claimed that the workers who were members of the Committee had been placed on a special "training module" for a period of several weeks, because they had requested the opportunity to learn how to use a sewing machine. Factory management told the WRC that this assignment was consistent with the company's general practice of placing new employees, first, in a "training vestibule" and then, subsequently, in a "training module".

The factory managers interviewed by the WRC in November 2019 further stated that new employees typically spend a period of several weeks in this training process. Finally, the factory management provided the WRC with a roster of all workers whom the factory had classified as "in training" from March to August 2019, which included the period when the Union Formation Committee members were assigned to the so-called "training module".

The factory management's description of its training process for new employees neither explained nor justified its reassignment of the Union Formation Committee members. First, four out of the five committee members whom the management assigned to the "training module" were not new employees or novice sewers but experienced sewing machine operators, with one of the four having been employed at the factory in this role for more than two years when she was reassigned. Moreover, two of the five workers who were reassigned to the "training module" were not even listed on the management's roster of workers "in training"—so that even the pretext of reassignment for training was not followed in their cases.

As noted, all except one of the five Union Formation Committee members who were reassigned to the "training module" already were working at the factory as sewing machine operators at the time they were reassigned. The remaining member of the committee who was reassigned was employed in the plant's packing department and did request to be trained as a sewing machine operator. However, this one employee's request for training does not provide a reasonable explanation for the company's creating a separate "training module", to which it also selected for reassignment the other four Union Formation Committee members (and only the other four committee members)—all of whom were already experienced sewing machine operators—out of the factory's workforce of 600.

Finally, the factory management's justification for reassigning the Union Formation Committee members was further contradicted by the fact that, for several weeks after they were reassigned, the employees in question did not actually receive training or work assignments but were simply paid their base wages (which were significantly lower than their usual production-based pay) to sit at their production stations without engaging in any activity. The company did not provide an explanation as to why it would choose

to pay Union Formation Committee members, who were experienced sewing machine operators, to sit idly without working, isolated from other employees, rather than have them perform their normal production duties.

In fact, the physical location to where the Union Formation Committee members were reassigned for “training” was not even the factory’s designated training center—where new employees who actually need such instruction are trained and whose location the factory management pointed out to the WRC’s interviewers who visited the factory in November 2019. The location where the committee members were reassigned (and isolated from other workers) was, instead, simply a separate, unused production line located next to the other production lines in the factory. While the location where the committee members were assigned was not the actual area that the factory has designated and equipped for training, moving the Union Formation Committee members there had the instructive effect of visually reminding other employees of the consequences of engaging in associational activity—which was clearly one of the company’s real objectives in reassigning these committee members to this area.

The WRC concluded, therefore, that All-Sportz reassigned the Union Formation Committee members to the so-called “training module” not to provide them with any training but to punish them for their associational activities, isolate them from the rest of the workforce to prevent the furtherance of these activities, and demonstrate to other workers what would befall those employees if they attempted to exercise these rights as well. The management’s targeting of the committee members for infliction of a significant economic penalty and its isolation of these workers from the factory’s other employees represented an act of actual, rather than merely threatened, retaliation and discrimination for their associational activities. As such, it constituted an even more serious violation of freedom of association and university labor standards than those already outlined above.

G. Restricting workers’ right to join and voluntarily pay dues to a union

In June 2019, following the WRC’s contacting All-Sportz concerning violations of freedom of association at the plant, the factory management participated in a mediation session with the Union Formation Committee members that was convened by the Dominican Ministry of Labor. In this meeting the factory management agreed, among other measures, to recognize workers’ right to freedom of association (which, of course, it was already required by Dominican law and university labor standards to do) and to meet with the committee members when needed. However, the management also insisted, at this mediation session, that it would only deduct dues for the union from a worker’s paycheck if the Union Formation Committee agreed that any worker who wished to have such dues deducted would be required to sign a document authorizing this deduction in the presence of a representative of the factory’s human resources department.

The factory management’s imposition of this requirement, which its Human Resources Manager, Sally Rodriguez, acknowledged to WRC interviewers in November 2019, further violated workers’ associational rights. In effect, it forced any worker who wished to become a dues-paying union member to declare the same in the presence of representatives of the factory’s management, whose top in-plant officials had already, themselves, threatened workers with termination for joining a union. This requirement interfered with and burdened workers’ ability to exercise freedom of association by joining the union—especially since, as discussed below, workers’ fears that, by signing such a dues authorization form, they are exposing themselves to risk of retaliatory firing were, in fact, quite well-founded.

H. Retaliatory discharge for joining a union

Several days after the June 2019 Labor Ministry mediation, a worker at the factory named Luis Manuel Miranda signed a document to join the union and authorize deduction of union dues from his paycheck. The worker, Miranda, and one of the members of the Union Formation Committee then went to the factory's human resources office, where they presented the document to one of the company's human resources managers, Sally Rodriguez.

Upon being informed of the reason for Miranda and the committee member coming to the human resources office, Rodriguez promptly grabbed Miranda's union membership and dues authorization document from the committee member and tore it up, stating that, because the document had not been signed in the human resource manager's presence, the committee member and Miranda had failed to follow the procedure that the company had insisted upon at the June 5 mediation. Rodriguez and other factory managers then called Miranda into another room where they informed him that he was dismissed from his job at the factory.

Miranda's termination was, on its face, a clear act of retaliation by the company for his exercise of freedom of association by joining the union and seeking deduction of union dues from his pay. The retaliatory nature of his discharge was apparent from the hostile animus displayed by the Human Resources Manager, Rodriguez, upon being presented with Miranda's union membership and dues deduction document and the timing of his firing immediately subsequent to this.

When the WRC initially requested information about the worker's dismissal from the company, the factory management denied that Miranda was fired for requesting to have union dues deducted from his wages and claimed to the WRC that Miranda instead was terminated for "poor production performance, bad [work] quality, and insubordination *as was documented in his records*" (emphasis added). When interviewed by the WRC in November 2019, Rodriguez, further specified that Miranda had been terminated because he had failed to comply with company production standards, had used obscene language, and had been disrespectful to his supervisor.

A review of Miranda's personnel file, however, failed to support these claims and revealed, instead, that these justifications for his termination were, in fact, pretextual. Miranda's personnel file made no reference of any kind to "poor production performance", "bad quality", "insubordination", "disrespect", or "obscene language"—in direct contradiction to both the factory management's claim that such misconduct was "documented in his records" and Rodriguez's similar statements to the WRC in her interview.

Instead, as the WRC pointed out to the company, the only negative items in Miranda's personnel file referenced his absence from work on certain days, which was *not* one of the reasons cited by the factory management for firing him. Subsequent to the WRC bringing these discrepancies to the management's attention, the factory management then changed its position—now claiming that Miranda *had* been terminated for absenteeism and presented the WRC with a document, that the management described as the letter of termination that it had issued to Miranda, which *did* mention the various issues originally cited by the company to the WRC for his discharge. However, given the timing of this proffer of evidence and inconsistency of the company's position, the WRC could not view the company as having established a credible nonretaliatory justification for Miranda's termination.

When the WRC interviewed Rodriguez about Miranda's termination, Rodriguez further claimed that she did not know that Miranda was a union member at the time of his dismissal. However, this claim also lacked credibility since, as discussed above, it was Rodriguez to whom Miranda presented his union membership documents and whom then tore these documents up in Miranda's presence before escorting him to a separate room where he was told that he was fired. The WRC therefore finds that the worker Luis Manuel Miranda was fired by All-Sportz in retaliation for his decision to join the union and not on the basis of the various pretexts cited by the factory management.

I. Paying employees to engage in anti-union activities and other discrimination against union supporters

On the afternoon of September 16, 2019, the factory management permitted a group of employees to hold a protest against the union, on paid work time, both outside the factory and inside the factory cafeteria, which was publicized on television news, and to display anti-union signs on the factory's gates. Although this non-work activity occurred on work time, members of the Union Formation Committee stated that the factory's General Manager, Gemma Castro, told them that the anti-union employees involved would not face any consequences for engaging in this activity, as the latter, she said, "had not done anything wrong."

When the WRC interviewed Castro and other managers in November 2019, the managers claimed that the anti-union press conference was fully organized by production workers without the management playing any role. Castro acknowledged that the event was held on company (i.e., work) time but claimed that all of the factory's production workers participated in this event without any prior authorization from any members of management.

This claim was simply implausible on its face. It amounted to an assertion that every single one of the factory's employees decided to abandon their workstations at a time when they were required by factory rules, and paid by the company, to be working, without any guarantee that they would not face a loss of pay or serious discipline—which, needless to say, are the usual consequences for a garment worker abandoning his or her job in the middle of the workday.

Moreover, the fact that workers were not disciplined by the management—which, instead, paid them their regular wages for time during which they were not working and had abandoned their job duties to attend the press conference—showed that this anti-union event was, indeed, sponsored, financially and managerially, by the company. Finally, in addition to permitting and paying these employees to protest against the union on company time, the management also gave them access to company facilities in the form of use of the factory cafeteria to hold this company-sponsored protest and use of the factory gates to display anti-union signs.

Since the company did not, at the time that this incident occurred, have a practice of paying or permitting workers to engage in *pro-union* activities on work time or provide use of these company facilities for this purpose but, instead, had threatened, financially penalized, and terminated workers for supporting the union, the company's support for the anti-union protest on September 16 represented another blatant act of discrimination against and interference with workers' exercise of freedom of association and, therefore, a further serious violation of university labor standards.

IV. Recommendations for Corrective Action

The serious violations of workers' associational rights that the management of All-Sportz committed not only impacted the employees who are members of the Union Formation Committee but also had a chilling

effect on the ability of all workers at the plant to exercise freedom of association. In order to counter this chilling effect and restore workers' associational rights—and, thereby, also restore compliance with university labor standards—the WRC recommended that the factory take strong affirmative measures to: (a) make clear that no worker will suffer any negative impact for or experience any improper restriction in the exercise of these rights and (b) correct for the impairment that had already been inflicted on workers' exercise of such rights by the management's course of conduct to date.

The WRC found that the remedial actions that the company was required to take to restore compliance with university labor standards were as follows:

- Issue a verbal and written statement to all factory employees, to be delivered during working hours by top company management and posted permanently in a public location in the factory, stating that the company respects the right of workers to join or form a union of their choosing and that workers will not be monitored, disciplined, or discriminated or retaliated against in any way for exercising this right. The statement must also clearly communicate that: (a) the factory's owner will not close the factory or take any other adverse action with respect to workers' employment on account of workers forming or joining a union, and (b) the company will impose meaningful discipline, up to and including termination of any supervisor, manager, or employee who violates workers' freedom of association rights. The text of this statement must be approved in advance by the WRC;
- Provide back wages to all Union Formation Committee members who were, from March 4 to approximately July 1, 2019, assigned to a production module where they were not given assignments or necessary technical support or material inputs to sew garments at normal production levels. The amount paid to each worker should compensate the employee for the amount that the worker would have earned in production bonuses for this period were they to have been placed on a normally functioning production line;
- Offer reinstatement with payment of all back wages from the date of dismissal to the date of the offer of reinstatement to the worker who was terminated after submitting a dues deduction form to the company, Luis Manuel Miranda, with the payment of back wages to the employee not made contingent on either his accepting or declining reinstatement;
- Arrange for an independent labor rights organization, to be approved in advance by the WRC, to provide onsite training on company time for all workers, and, separately, for all managers and supervisors, concerning workers' rights to join and form a union;
- Affirmatively offer and provide to any and all factory employees, on any occasion when they are meeting with a supervisor or manager concerning any disciplinary matter or issue of concern regarding the workplace or their working conditions, the choice to have a Union Formation Committee member present to assist them and/or witness the meeting, on paid work time;
- Should the Union Formation Committee request it, hold monthly meetings between representatives of All-Sportz and the Union Formation Committee in order to discuss workplace concerns. These meetings may, at the request of the committee, include representatives of the union federation to which the committee is affiliated;

- Allow the members of the Union Formation Committee, and any other employees whom they may invite, the opportunity to meet during non-work time in any non-work area of the factory, including the factory cafeteria, without interference or monitoring by any manager, supervisor, or any other employee; and
- Accept any signed union membership and dues authorization form presented by any Union Formation Committee member or any other worker and deduct union dues accordingly for the wages of the worker in question, until instructed otherwise by the employee of his or her own volition. The factory should waive any requirement that workers who choose to join the union or authorize the deduction of union dues from their wages sign such an authorization in the presence of a company human resources representative or any other personnel.

V. Commitments to Remedy Violations by All-Sportz Apparel

Following the WRC's engagement with All-Sportz Apparel and with its buyer, the licensee, Varsity Spirit Fashion and Supplies, the factory's owner agreed to implement all of the remedial actions proposed by the WRC. Specifically, on February 19, 2020, the factory committed to take the following actions:

- Issue a verbal statement to all factory employees to be delivered during working hours by management and posted permanently in a public location in the factory announcing that the company respects the right of workers to join or form a union of their choosing and that workers will not be monitored, disciplined, or discriminated or retaliated against in any way for exercising this right. The company also agreed that a representative of the WRC can be present at the reading of the statement;
- Pay the five workers who are members of the Union Formation Committee and were reassigned from their regular production jobs during the months of March to July 2020 a total amount of US\$865, which is the equivalent of the total amount that these worker would have earned in production bonuses during this period had they remained on a normally functioning production line;
- Reinstatement the worker Luis Manuel Miranda and provide him with payment of back wages from the date of his dismissal, with payment of back wages to the employee not made contingent on either his accepting or declining reinstatement;
- Sponsor a training session for managers and supervisors and, separately, for employees during the workday on paid time on the right of workers to freedom of association. These trainings will be delivered by a third party that is mutually agreed upon by the company and by the WRC;
- Allow all employees the opportunity to request that a member of the Union Formation Committee be present as a witness or to render assistance when the employee is called to a meeting with a supervisor or manager regarding a disciplinary matter or workplace concern;
- Participate in a monthly meeting with representatives of the Union Formation Committee (and, if requested by the committee, representatives of the labor federation to which the committee is affiliated) to discuss workplace issues if such a meeting is requested by the Union Formation Committee;

- Allow members of the Union Formation Committee to meet among themselves or with other employees in non-work areas of the factory during non-work hours without interference or monitoring by any manager, supervisor, or other employee; and
- Allow submission to the company of documents notifying the management of workers having joined the union and requesting the deduction of union dues without requiring such documents to be signed in the presence of a human resources manager.

This is an extensive list of commitments. However, in cases such as this one, where factory managers have taken a broad range of actions that have negatively affected the environment in the workplace for the exercise of freedom of association, such extensive measures are necessary in order to counteract the chilling effect of these actions and meaningfully restore workers' rights.

The WRC credits the licensee, Varsity, for accepting the need for its supplier, All-Sportz, to implement these measures and All-Sportz, itself, for making these commitments. The WRC will cooperate with All-Sportz and the Union Formation Committee in supporting this process and will closely monitor the company's implementation of these commitments.