

WORKER RIGHTS CONSORTIUM FACTORY ASSESSMENT

APS El Salvador (El Salvador)

Findings, Recommendations, and Buyer Response



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I. Introduction and Executive Summary

This report outlines the investigative findings and recommendations for remedial action of the Worker Rights Consortium (WRC) concerning unpaid wages, legal severance, and other terminal compensation owed to workers at the Salvadoran garment factory, APS El Salvador (“APS”), which closed in August 2022. The WRC initiated an investigation into the factory’s failure to pay this compensation in response to a complaint from three Salvadoran unions whose members worked at the factory, the Federación Independiente de Asociaciones y Sindicatos (FEASIES), Sindicato General de Costureras (SGC), and Sindicato de la Industria de la Costura y la Maquila (SINDICOM).

Research conducted by the WRC indicated that, in the months leading up to the factory’s closure, APS produced apparel for several North American brands, among them Hanesbrands, International (for its Champion brand) (“Hanesbrands”), Gildan Activewear (“Gildan”), Kellwood Company (“Kellwood”), and Specialized Bicycle Components (“Specialized”). Some of these brands had placed orders directly with the factory, while others purchased through buying agents.

Representatives of one of these buying agents identified the owner of the APS factory as Oneworld Star, International (“OSI”), a subsidiary of Shangying Global, a formerly publicly traded Chinese company, which, since mid-2022, is no longer a going concern.¹

On August 30, 2022, APS informed its workforce of 831 nonmanagerial employees that it was permanently and fully closing operations. The Salvadoran Ministry of Labor determined that APS owed these workers approximately \$2 million dollars for unpaid wages, legally owed severance, and other terminal benefits, of which—after significant commitments to assist the workers were made by some of the brands and other entities that were involved in the purchasing of apparel produced by APS—\$659,000 currently remains outstanding.

Having investigated the complaint filed by worker representatives and confirmed that workers had not been paid legally due wages, severance, and other statutory benefits, the WRC engaged with brands and other entities that were involved in the purchasing of apparel produced at the factory prior to its closure. The WRC recommended to these brands and other entities that, since APS’s parent company was no longer in operation, they should make sufficient contributions, themselves, to ensure that, consistent with their own codes of conduct for labor practices at their supplier factories, the APS workers received the compensation that was legally due at the time the factory closed.

To their credit, Kellwood, Alwants, LLC (“Alwants”) (a company that was involved as an agent in the purchasing of apparel produced by APS), and Gildan all made significant commitments to contribute funds to assist the workers that amount, in total, to 67 percent of the compensation legally due to the workers when the factory closed. These funds will be distributed to the APS workers, who, along with their families, have faced significant hardship as the result of the

¹ Shanghai Stock Exchange, “Shangying Global Co., Ltd.”—1st Notice of Risk Alert on Trade of Shares Entering Delisting Finishing Period,” June 2, 2022, <http://english.sse.com.cn/markets/equities/announcements/detail.shtml?seq/1137416/date/20220602>.

factory having closed without paying legally due wages, severance, and other terminal benefits. The workers and their families will benefit greatly from receiving these funds.

However, because of the failure of Hanesbrands and Specialized to make any meaningful contribution to support the APS workers to date, workers have no immediate prospect of receiving approximately 33 percent of the compensation that was legally due to them at the time their employment was terminated—an amount equal to roughly \$659,000. This is money these workers legally earned while making apparel for these brands and money they and their families still desperately need.

The WRC has made numerous efforts to engage Hanesbrands and Specialized. Hanesbrands—a company which reported \$6.2 billion in revenue last year—acknowledges that it sourced apparel for its Champion brand from APS but, to date, has not been willing to make a substantial contribution to assist the workers, offering only a token amount.

With respect to Specialized, since the APS factory closed, both the WRC and APS workers' representatives have written to its executives on multiple occasions seeking the company's assistance in addressing the nonpayment of legally due compensation to the employees. Specialized has never responded to these communications, despite the fact that the company continues to claim on its website that its "values" include "promot[ing] human rights ... in our supply chain", and that it is "[a]ctively work[ing] to improve the social and environmental performance of our suppliers".²

In order to resolve the lack of full payment to workers of the compensation they were legally due at the time the APS factory closed and the hardships faced by workers and their families as a result of the factory's closure, the WRC continues to urge both Hanesbrands and Specialized to make meaningful contributions to address the outstanding arrears to the workers who made their branded apparel at the APS factory.

² Specialized, "People. Planet. Performance.," <https://www.specialized.com/ie/en/sustainability>.

II. Methodology

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

- Interviews with former employees of APS El Salvador and their union representatives;
- Written and phone communications with representatives of brands and buying agents that sourced from the APS factory prior to closure and other relevant stakeholders;
- Communications with representatives of the Salvadoran Ministry of Labor and Public Prosecutors Office;
- A review of documents related to the APS factory's operation, orders from buyers, and payroll and severance obligations; and
- A review and analysis of applicable Salvadoran law and buyer codes of conduct.

III. Finding: Failure to Pay Legally Required Terminal Compensation

The APS El Salvador factory permanently ceased operations and closed on August 30, 2022. Employees told the WRC that they began their workday as usual on the morning of August 30, but, sometime before noon, security guards employed by the industrial park where the factory was located entered the facility and began to evict all APS personnel from the premises. Workers were told that this eviction was carried out on account of APS's owners having failed to pay rent to the industrial park.

Immediately after the eviction, representatives of APS's management told workers that the factory would no longer operate the facility. As a legal matter, the announcement of permanent cessation of operations constituted an immediate termination of employment, without fault of the employee, for all 831 workers at APS.

Under the Labor Code of El Salvador, when a worker is terminated without fault of their own, their employer is obligated to pay them severance, in the amount of 30 days' base wages for each year of service plus compensation for all unused vacation days and the legally required year-end bonus, prorated based on the day of the year when the termination occurs.³ These obligations are affirmed in the country's Free Trade Zone Law, which establishes that businesses, like APS, that are located in a free trade zone must "pay severance, year-end bonus, and proportional vacation . . . to all workers who are affected in the event of a total or partial closure of the company or establishment".⁴ Finally, in addition to failing to pay workers the severance and other terminal compensation they were legally due at the time of the factory's closure, APS also owed workers four weeks' regular wages. This also was not paid for by the factory's owners.

The Salvadoran Ministry of Labor made an individual calculation, for each of the factory's 831 former nonmanagerial employees, of the amount they were legally due at the time of their dismissals. The Ministry determined that the total amount owed to these workers for unpaid wages, severance, and terminal benefits at the time of APS's sudden closure was approximately \$2 million.

Immediately following the factory's closure, meetings were held at the Salvadoran Ministry of Labor among worker representatives, government officials, and the factory's legal representatives. These meetings resulted in a written agreement in which APS committed to pay the workers their 28 days of unpaid wages, plus 50 percent of the legally due severance and other terminal benefits by December 13, 2022.⁵ However, this commitment was made contingent on the APS representatives securing a buyer for the factory's equipment and other goods.

In exchange for this (conditional) commitment from the factory's representatives to pay the workers approximately 50 percent of the compensation they were legally due, worker representatives agreed to refrain from filing suit for this compensation with the Salvadoran Labor Courts. Filing such a claim would have prevented factory representatives from pursuing the sale of the facility's equipment and other goods.

³ Salvadoran Labor Code, Articles 58, 187, and 202.

⁴ Free Trade Zone Law (1998), Article 29(b).

⁵ In the agreement signed by the parties, the Salvadoran Public Defender made note that, under the law, the workers were entitled to 100 percent of the money owed to them.

Instead, a committee was formed made up of factory representatives, worker representatives, and government officials to conduct an inventory of the equipment and goods remaining at APS, to price each item, to respond to requests from potential buyers, and, if a buyer was secured, to ensure equitable distribution of the funds to workers.

Unfortunately, no viable offer for the factory's assets was identified between the factory's closure in late August 2022 and the agreed upon date of payment of December 13, 2022. As a result, the workers decided to proceed with their filing of a court claim against APS, demanding full payment of the wages, severance, and other terminal compensation owed to them at the time of the factory's closure.

During the more than one year since the APS factory closed, workers have reported experiencing significant hardships as a result of the nonpayment of their owed wages, severance, and other terminal compensation. Workers testified to the WRC that they were unable to pay rent, utility bills, and children's school fees. Many also told the WRC that they were not able to pay for medical care or buy enough food to eat for their families.

Salvadoran labor law explicitly states that when a factory closes, its workers must immediately receive all unpaid wages and terminal compensation that are legally due. According to calculations prepared by the Salvadoran Ministry of Labor, the 831 former nonmanagerial employees at APS were owed \$2 million. Moreover, the supplier codes of conduct of major apparel corporations like Hanesbrands uniformly require that workers at their supplier factories receive all legally required wages and benefits.⁶

The apparent willingness of Hanesbrands and Specialized to see these standards violated—and to allow workers who made their branded apparel to be cheated out of millions in legally owed compensation they earned by years of hard work—speaks volumes about the genuineness of these brands' self-stated commitments to “promote human rights ... in our supply chains” and “improve the lives of people”.⁷

⁶ See, for example, Gildan's Code of Conduct, which states that “Gildan and its business partners must comply fully with all legal requirements relevant to the conduct of their businesses ...”, https://gildancorp.com/media/uploads/global/plugin/bb2022_code_of_conduct_poster.pdf and Hanesbrands' Global Standards for Suppliers, “We require Suppliers to comply with all applicable laws and regulations and to support fundamental human rights for all people.” <https://hbisustains.com/wp-content/uploads/2022/07/HBI-GSS-2022-English.pdf>.

⁷ Steve Bratspies, “A Message from Steve Bratspies, CEO, Hanesbrands”, Hanesbrands Sustainability video, 1:53, <https://hbisustains.com>, “We understand our responsibility to improve the lives of people”; Specialized, “Our Values”, <https://www.specialized.com/us/en/sustainability>.

IV. Recommendations for Corrective Action

The WRC advised brands sourcing from APS, before the factory's closure, of their responsibility, under their own labor standards, to ensure that the facility's 831 workers receive all of the unpaid wages, severance, and other terminal compensation they were legally due at the time of dismissal. Since APS's parent company, Shangying Global, appears to be defunct and since the factory's modest leftover assets have found no buyer, the WRC advised brands that the only way this can be accomplished is through humanitarian contributions by the brands themselves that are sufficient, in combination, to make workers whole for this nonpayment.

V. Buyer Response

The WRC engaged with several brands and other entities that were involved as agents in the purchasing of apparel produced by APS in the period before the factory's closure, requesting their assistance to ensure that workers received the unpaid wages, severance, and other terminal compensation they were legally due at the time of their dismissal.

Kellwood, the buying agent, Alwants, and Gildan committed to contribute, in total, \$1.34 million dollars to be distributed to the APS workers. These contributions will be distributed in their entirety, to the APS workers, with the assistance of worker representatives and women's rights advocates in El Salvador. These funds represent 67 percent of the compensation legally due to workers when the factory closed.

The failure of Hanesbrands and Specialized—whose apparel was made by the APS workers prior to the factory's closure—to commit to comparable assistance to the workers leaves the latter without approximately 33 percent of the compensation that was legally due to them at the time their employment was terminated, an amount equal to roughly \$659,000.

This is money that these workers legally earned while making apparel for international buyers, including Hanesbrands and Specialized, that claim to adhere to ethical standards in their global supply chains but have manifestly failed to do so in this case. Both have refused to contribute in a meaningful way.

Hanesbrands, pressed repeatedly to act, ultimately offered a contribution that represents a miniscule fraction of the money owed to the workers, a token amount, to put it charitably.

Since the APS factory closed, both the WRC and APS worker representatives have written to Specialized on multiple occasions seeking the company's assistance in addressing the nonpayment of legally due compensation to the employees. Specialized has never responded to these communications, an extraordinary display of disregard for the human rights of workers who made its clothes. As noted above, the company continues to claim on its website that its "values" include "promot[ing] human rights ... in our supply chain", and that it is "[a]ctively work[ing] to improve the social and environmental performance of our suppliers."⁸

In order to resolve the lack of full payment to workers of the wages, severance, and other terminal compensation they were legally due at the time the APS factory closed and to alleviate the hardship faced by workers as a result of this nonpayment, the WRC continues to urge that both Hanesbrands and Specialized make meaningful contributions of funds to help rectify the nonpayment of wages, severance, and other terminal compensation to the workers who made their branded apparel at the APS factory.

⁸ Specialized, "People. Planet. Performance."