



April 2, 2008

Hermosa Manufacturing¹
Highlights of Activities, El Salvador Ombudsman
September 2007-February 2008

Background

On September 7, 2007, the FLA appointed a well-respected Salvadoran human and labor rights lawyer and professor at the University of El Salvador, Mr. Juan José Zaldaña, to act as ombudsman with respect to the Hermosa Manufacturing case. The duties of the Ombudsman include: (1) establishing a dialogue with former workers of Hermosa Manufacturing, Salvadoran civil society organizations, and the Government in El Salvador with respect to the Hermosa case; (2) investigating any complaints regarding discrimination in hiring brought forward by any former Hermosa worker with respect to any facility of an FLA Participating Company or a College or University licensee in El Salvador; and (3) making suggestions and recommendations to the FLA regarding potential ways to address the needs of former Hermosa workers. The highlights that follow are culled from the monthly reports prepared by the Ombudsman and submitted to the FLA over the six-month period September 2007 through February 2008.

Highlights of Activities

September 2007

- Met with the Director of FESPAD (Fundación para Estudios y Aplicación del Derecho) to be briefed on legal cases regarding Hermosa.
- Met with representatives of five factories in El Salvador that supply FLA brands to introduce himself as Ombudsman, explain his mandate, and establish communication links. These factories agreed to participate in an exercise in which the Ombudsman would observe their hiring practices.
- Met with seven leaders of the former Hermosa workers to introduce himself as Ombudsman, explain his mandate, and establish communication links. The workers agreed to organize a General Assembly of former Hermosa workers to introduce the Ombudsman to a larger number of workers.

¹ A Third Party Complaint was filed with the FLA on December 8, 2005 by Christliche Initiative Romero (CIR) regarding Hermosa Manufacturing, a factory located in Apopa, El Salvador. The complainant alleged that the factory had closed suddenly in May 2005, leaving about 320 workers without employment and in several cases, without back wages, overtime payments or severance payment. The FLA issued an Interim Summary Report on the complaint on August 25, 2006, which is available here: http://www.fairlabor.org/news/hot_issues. More information on FLA activities regarding the Hermosa Manufacturing case is available on the FLA Web site here: http://www.fairlabor.org/news/hot_issues.



October 2007

- Attended General Assembly meeting of former Hermosa workers held in Apopa, which was attended by 30 former workers (28 women and 2 men). The Ombudsman explained his mandate and objectives. The former Hermosa workers expressed gratitude to the FLA for keeping the case alive and agreed to collaborate with the Ombudsman in seeking solutions to their situation.
- Met at the headquarters of the Union Confederation of Salvadoran Workers (Confederación Sindical de Trabajadores Salvadoreños, CSTS) with representatives of CSTS, the Worker Rights Consortium (WRC), and the former Hermosa workers.
- Attended meetings at the U.S. Embassy in San Salvador organized by the Labor Attaché. In addition to Embassy personnel, representatives of CSTS and the former Hermosa workers were also in attendance. Discussed the status of the various legal cases (labor and penal) brought forward on behalf of former Hermosa workers, including claim about illegal transfer of assets by the former owner of Hermosa.
- Accompanied by a group of former Hermosa workers, met with officials of the Ministry of Labor and Social Welfare (Ministerio de Trabajo y Previsión Social). The discussion centered on access to medical services for cancer patients and participation in job fairs. Also met with the Adjunct Prosecutor for the Defense of Human Rights (Procurador Adjunto para la Defensa de los Derechos Humanos) to discuss former Hermosa workers' claims for violations of workers rights.
- Briefed a representative of the Christliche Initiative Romero (CIR), the originator of the Third Party Complaint, about current and future activities of the Ombudsman.

November 2007

- Met with officials of the Presidential House (Casa Presidencial) to discuss problems faced by former Hermosa Workers, particularly regarding access to health services.
- Met with leaders of the former Hermosa workers to obtain and assemble information regarding former Hermosa workers facing serious health problems.
- Met with the Rector of Albert Einstein University to seek the institution's support in the training of former Hermosa workers.



December 2007

- Met with U.S. Embassy officials and former Hermosa workers to discuss the lack of health services for former Hermosa workers who have been very ill. Presented information linking ownership of Hermosa Manufacturing and MB Knitting, a factory operating in El Salvador.
- Met with a representative from adidas Group who had come to El Salvador to meet with Government of El Salvador officials. Discussed with him the status of legal cases, health services and housing needs of workers, and worker needs for retraining as they have been out of work for more than 18 months and their skills have deteriorated; moreover, some of these workers may not be able to find employment in the garment sector and may benefit from skills training helpful in other industries. Also arranged for a meeting between the adidas Group representative and former Hermosa workers.
- Met with Ministry of Labor officials to follow up on visit by the adidas Group representative. Set up meeting for January to discuss specific issues. Also met with former Hermosa workers to ascertain their interest in retraining and the form that such retraining should take.

January 2008

- Met with representatives of the Ministry of Labor to discuss health services, housing, and retraining needs of former Hermosa workers. Ministry officials committed to coordinate actions, in their respective areas of responsibility, with the National Health Directorate (Dirección Nacional de Salud), Social Housing Fund Directorate (Dirección del Fondo Social para la Vivienda) and with the Salvadoran Professional Training Institute (Instituto Salvadoreño de Formación Profesional, INSAFORP). Ombudsman subsequently met with representatives of those government entities.
- Observed hiring process at a factory located in Apopa, the area where the majority of former Hermosa workers live. Ombudsman was informed in advance of the vacancies for sewing machine operators and subsequently informed former Hermosa workers about those vacancies. Twenty-one former Hermosa workers arrived as potential applicants; six were selected to be tested for the positions. Only one of the former Hermosa workers passed the skills-based test to which all applicants were subjected and she was hired as a probationary employee. Shortly after, the worker was dismissed for failure to meet daily work quotas. Through the intervention of the Ombudsman and the FLA, the worker was reinstated but ultimately was dismissed for performance reasons. With respect to the hiring process at this factory, the Ombudsman rendered the following assessment: (1) in general, the hiring process is acceptable, orderly, framed within normal rules of procedure, and understandable to applicants; (2) the factory demonstrated goodwill by not requiring information about former jobs from applicants, thereby eliminating any



possibility of discrimination based on former union association; and (3) the fact that six of the former Hermosa workers performed below average on the skills-based tests supports the Ombudsman's conclusion that these workers have a great need for skills-based training.

- Met with the Rector of Albert Einstein University and obtained the university's agreement for the creation of a center for retraining maquila workers endowed with machines donated by the Salvadoran industry and financial support from the Salvadoran government via INSAFORP.
- Met with visiting representatives of the Maquila Solidarity Network (MSN) to brief them on activities of the Ombudsman and future plans.
- Met with the adidas Group representative to discuss developments in the case, particularly the plan to retrain maquila workers at Albert Einstein University. Former Hermosa workers would receive, in addition to skills training, some basic training in English and in data processing/computers. The adidas Group representative indicated a willingness on the part of his company to make a contribution to cover food costs associated with the training.
- Accompanied a representative from the adidas Group to a meeting with the General Prosecutor of the Republic (Procurador General de la República), the Minister of Labor (Ministro de Trabajo), a senior advisor to the Ministry of the Economy (Ministerio de Economía), and the Adjunct Prosecutor for Labor (Procurador Adjunto de Trabajo); U.S. Embassy representatives were also in attendance. This was followed by a meeting at the Ministry of Labor.

February 2008

- Met with the Rector of Albert Einstein University to discuss administrative aspects of the planned training for maquila workers, including mechanism for accepting donations for food and transportation for persons being trained.
- Attended a General Assembly of former Hermosa workers held in the Municipal House of Apopa. Fifty former workers attended. Topics discussed included employment opportunities, health, housing, and retraining. The Ombudsman reported that the government had agreed to hold a job fair solely for former Hermosa workers and two individuals had been identified within the Government of El Salvador to be points of contact with former Hermosa workers with respect to health and to housing issues.
- Met with officials of the Ministry of the Economy and of the Ministry of Labor to follow up on earlier meetings and continue discussion of a range of issues affecting former Hermosa workers and plans for a job fair exclusively for these workers.



Assessment and Future Work

Over the past six months, the FLA El Salvador Ombudsman has been very effective in establishing a dialogue with the various stakeholders involved in the Hermosa Manufacturing case. The Ombudsman continues to engage with Salvadoran government and civil society organizations to seek redress for the violations of workers' rights affecting Hermosa workers, particularly those who remain unemployed to date.

The Ombudsman has also established a dialogue with garment factories that could employ former Hermosa workers and has observed the hiring process at one of the factories. Two objective factors that are affecting the reemployment possibilities of former Hermosa workers are: (1) the stagnation and even relative decline of activity in the Salvadoran garment industry and the concomitant weakness in new hiring in the industry; and (2) the deterioration of the work skills of former Hermosa workers, who are having great difficulty in meeting the skill requirements for being hired as experienced machine operators.

In addition to maintaining a dialogue with stakeholders involved in the case and observing the hiring process at factories to prevent discrimination against former Hermosa workers, the Ombudsman will continue to assist in the creation of a training program through which former Hermosa workers will be able to refresh their skills, particularly with respect to operating sewing machinery, and gain familiarity with English as a second language and computer proficiency. The training sessions will be funded by INSAFORP and held at Albert Einstein University. The training will be open to all former Hermosa workers, and will be offered free of charge to workers. Finally, the Ombudsman will continue to engage with Ministries and regulatory agencies of El Salvador to address legislative, political, and regulatory actions that tend to result in chronic noncompliance issues related to worker rights, such as those witnessed in the case of Hermosa Manufacturing.