



**JOEANNE DOMINICANA,  
DOMINICAN REPUBLIC  
THIRD PARTY COMPLAINT  
FINAL REPORT**

On March 2, 2015, the Federation of Dominican Free Trade Zone, Diverse Industries, and Services Workers (Federación Dominicana de Trabajadores de Zonas Francas, Industrias Diversas y de Servicios, FEDOTRAZONAS) in the Dominican Republic filed a Third Party Complaint with the Fair Labor Association (FLA) alleging violations of freedom of association by JoeAnne Dominicana against the local union United Workers Union (Sindicato de Trabajadores Unidos), affiliated to FEDOTRAZONAS. FLA-affiliated Participating Company Fruit of the Loom, Inc., and Category B Licensee Franklin Sports source from JoeAnne Dominicana. More pointedly, the complaint alleged that Joe Anne Dominicana’s management had engaged in a harassment and threat campaign against union members, and had sought to get union members to end their affiliation with the union, dismissing some workers because of their union affiliation. The alleged behavior is inconsistent with FLA Compliance Benchmarks FOA.4, Anti-Union Violence/Harassment or Abuse,<sup>1</sup> and FOA.5, Anti-Union Discrimination/Dismissal, Loss of Other Union Rights and Blacklisting.<sup>2</sup>

The FLA accepted the complaint for review under the Third Party Complaint procedure and moved it to Step 2. Pursuant to Step 2, the Participating Company or College or University Licensee has up to 45 days to investigate the alleged non-compliance internally and inform the FLA. Fruit of the Loom, Inc. and Franklin Sports agreed to waive Step 2 and therefore the FLA moved the case to Step 3. Under Step 3, the FLA engaged an independent third party to carry out an assessment.

### **FLA Assessment**

The independent third party assessment was conducted by Francisco Chicas, FLA’s SCI Lead Assessor for the Americas.<sup>3</sup> The specific issues to be investigated were:

1. Allegations of harassment of union leaders/members and use of abusive language against union leaders/members by factory representatives.
2. Allegations of threats of termination of employment of workers who had indicated union affiliation.

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<sup>1</sup> FOA 4 states: “Employers shall not use any form of physical or psychological violence, threats, intimidation, retaliation, harassment or abuse against union representatives and workers seeking to form or join an organization of their own choosing.”

<sup>2</sup> FOA 5 states: “Employers shall not engage in any acts of anti-union discrimination or retaliation, i.e. shall not make any employment decisions which negatively affect workers based wholly or in part on a workers’ union membership or participation in union activity, including the formation of a union, previous employment in a unionized facility, participation in collective bargaining efforts or participation in a legal strike.

<sup>3</sup> The full report of the investigation, in English and Spanish, is at <http://www.fairlabor.org/report/joanne-dominicana-dominican-republic>

3. Review documents and compile testimony from management and workers regarding the termination of 3 union leaders in early 2015. Evaluate if the factory has disciplinary regulations that include the principle of progressive discipline as part of its internal work rules and regulations; and if so, if said rules were applied in the cases of the terminated workers, who occupied positions of leadership within the union. Particularly assess whether: (a) JoeAnne Dominicana followed appropriate procedures in taking the proposals to dismiss union leaders to the Ministry of Labor before going to the Labor Court; and (b) the workers had the opportunity to defend themselves against the accusations of indiscipline presented against them.

The investigator conducted field work in Santiago, Dominican Republic, June 15-18, 2015. The investigator conducted interviews with various stakeholders related to the case, such as officials of the Ministry of Labor in Santiago and FEDOTRAZONAS leaders, including the three terminated members of the union's Founding Committee. The investigator conducted on-site visit during two days at the premises of JoeAnne Dominicana, located in the Santiago Free Trade Zone, in order to perform interviews with workers and management, documentation review and a visual inspection of the facilities. A total of 29 workers from all departments were interviewed, including seven union members, two supervisors and off-site interviews were held with two former JoeAnne Dominicana workers. Finally, the investigator reviewed internal factory documents as well as official documents from the Ministry of Labor and the Labor Court from Santiago's Justice Department.

### **Assessment Findings**

The investigator was not able to corroborate allegations of harassment of union leaders/members and use of abusive language against union leaders/members by factory representatives. The investigator was able to document positive actions by management supportive of the exercise of freedom of association, such as posting of notices in bulletin boards with a message from the company's president indicating respect for freedom of association, a policy of non-retaliacion against workers who exercise their associational rights, and channels open to workers to report violations of freedom of association. The investigator was also able to document that the factory has held training for workers and managers on freedom of association. Finally, the investigator reported that there is a climate of hostility toward freedom of association in the Santiago region, which make it difficult for unions to operate in free trade zones and in general.

The investigator did not find evidence of termination of union leaders who are part of the union's founding committee. The investigator found that union leader and members were able to openly express their views in the workplace without fear of retaliation from management.

With respect to the dismissal of three union leaders with cause in early 2015, the investigator found that while the dismissal process did not follow the steps in the factory's disciplinary procedures, the factory was within the law in proceeding to effect

the dismissal through the Labor Court. The investigator identified some gaps in the factory's disciplinary procedures that merit the factory's attention, including lack of uniformity in the implementation of disciplinary rules, lack of a procedure to appeal disciplinary decisions, and overly general language with respect to norms of accepted/unaccepted behavior.

### **Recommendations**

The investigator made the following recommendations of JoeAnne Dominicana's management:

1. Review and modify the current disciplinary system, in order to:
  - A) Define in writing the exceptional cases in which disciplinary actions will not be communicated to the worker because in its place an authorization for termination will be requested from the competent authorities.
  - B) Eliminate imprecise and overly-general provisions that may lead to the discretionary application of disciplinary rules.
  - C) Define various levels or categories of disciplinary offenses, according to their seriousness, and the disciplinary sanctions that will be applied to each of these offenses.
  - D) Formalize in writing the following elements required by the FLA with respect to disciplinary rules: right to appeal disciplinary actions; review of disciplinary actions by a management representative senior to the manager imposing the disciplinary action; and the right of workers to present witnesses on their behalf during the consideration of disciplinary actions.
2. Once the new disciplinary system has been adopted, hold periodic training for workers – including supervisors and managers – for the purpose of familiarizing all with the new system.
3. Ensure the uniform and consistent application of disciplinary rules and document all infractions committed by workers, as well as sanctions imposed, including those exceptional cases in which disciplinary actions will not be communicated to the worker and taken directly to the competent authority.
4. Continue to conduct training and disseminate information about the right to freedom of association, emphasizing the importance and benefits of freedom of association, with the purpose of eliminating negative conceptions that some workers hold about the right to freedom of association.

### **Remediation Plan**

Fruit of the Loom, Inc. and Franklin Sports have worked with JoeAnne Dominicana management to put in place a remediation plan to address the issues raised by the investigator. In particular, the factory's management, working closely with the Santiago Labor Board, has developed a comprehensive document on disciplinary rules and

reprimands that will be made part of the Employee Handbook. The document defines rules of behavior, actions that can trigger disciplinary actions, company treatment of such actions, and rights of workers facing reprimands. Factory management and union representatives have consulted on the disciplinary rules and are engaged in a process of dialogue on the rules and on other matters of common interest.

The revised Employee Handbook will be distributed to all workers and managers that have undergone freedom of association training in the last 45 days. Management plans to hold training on the new Handbook in October as well as continue freedom of association training. The new Handbook will also be distributed and used during orientation sessions for new employees.

### **FLA Comments and Next Steps**

The remediation put in place as a result of the investigation has addressed important gaps in disciplinary rules at the factory. The planned training on the contents of the new Employee Handbook, including the disciplinary rules, and the continuing training on freedom of association should raise the level of awareness among workers about both of these important issues. The FLA has been in contact with the complainant and learned that the company and the union have begun a fluid dialogue process and the company has voluntarily agreed to make some payments to the three union leaders who were dismissed in early 2015 for cause and therefore did not qualify for severance payments. Therefore, the FLA deems this Third Party Complaint as completed.