



July 12, 2011

**INTERIM REPORT:  
THIRD PARTY COMPLAINT REGARDING APPLE TREE  
IN EL SALVADOR**

**COMPLAINT**

On March 25, 2011, the Fair Labor Association (FLA) received a Third Party Complaint from representatives of the Sindicato de la Industria Textil y Actividades Conexas y Similares (SITS), one of the two legally recognized unions at the factory Apple Tree, S.A. de C.V. (“Apple Tree”)<sup>1</sup> in San Salvador, El Salvador. The Third Party Complaint alleged violations of local labor standards and of the FLA Workplace Code of Conduct, in particular with respect to Freedom of Association and Harassment or Abuse. FLA-affiliated companies Russell Brands, LLC (“Russell Brands”), a Participating Company, and M.J. Soffe, a Category B Licensee, source from Apple Tree.

In accordance with the FLA Third Party Complaint Procedure, the FLA assessed the complaint and made the determination to accept it for review and to move it to Step 2 of the Procedure.<sup>2</sup> On April 7, Russell Brands and M.J. Soffe were notified about the acceptance of the Third Party Complaint.

**ASSESSMENT BY COMPANY**

M.J. Soffe reported that on April 14, as part of the assessment of the complaint,<sup>3</sup> its representatives and those of Delta Apparel, Inc.<sup>4</sup> visited Apple Tree and met with the owner, Human Resource Manager and Contract Administrator for M.J. Soffe. Additional meetings were held with the owner of Apple Tree on May 5 and 6.

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<sup>1</sup> The two legally recognized unions at Apple Tree are SITS (affiliated with FESS) and STITAS (affiliated with FENASTRAS).

<sup>2</sup> Step 2: Informing the Company or Licensee--The Executive Director will inform the company that a complaint has been filed against it and provide the company with the information supplied by the complainant. The FLA will also provide a preliminary indication as to which Workplace Standards are potentially non-compliant. The company then has up to 45 days either to request that the process go directly to Step 3 or to investigate the alleged noncompliance internally...More information about the steps involved in a Third Party Complaint investigation are described in the FLA Charter available on the FLA Web site at: <http://www.fairlabor.org/fla/go.asp?u=/pub/mp&Page=FLACharter>.

<sup>3</sup> M.J. Soffe and Russell Brands agreed that M.J. Soffe would take the lead in the assessment of the alleged noncompliances and Russell Brands would support M.J. Soffe in the development and implementation of any needed remediation.

<sup>4</sup> M.J. Soffe is a wholly-owned subsidiary of Delta Apparel, Inc.

Some of the issues raised in the Third Party Complaint had previously been identified through an FLA Independent External Verification<sup>5</sup> (IEV) that was conducted in August 2010, by GMIES (Grupo de Monitoreo Independiente de El Salvador), an FLA-accredited monitor. M.J. Soffe was in the process of implementing and fine-tuning a remediation plan to address the noncompliances when the Third Party Complaint allegations were raised.

The principal allegations made by the complainants regarding freedom of association were also identified in the IEV, namely:

- management's preferential treatment and privileges favoring one union over another; and
- management's interference with workers' affiliation with SITS.

With respect to the first point, M.J. Soffe's assessment confirmed that the leader of the STITAS union had been given substantial latitude to move around the factory during working hours to engage in union activities, a privilege not granted to the leader of SITS. Management has taken steps to end the ability of the STITAS union leader to move around the factory to conduct union business during working hours. M.J. Soffe's assessment did not confirm the specific allegation that management promoted affiliation with the STITAS union to new employees.

To address the freedom of association noncompliances, the remediation plan prepared by M.J. Soffe and included in the IEV report stated:

“Factory management to enhance its FOA policy by including the following elements:

1. ensure that employees will not be subject to intimidation or harassment in exercising their right to join or to refrain from joining any organization;
2. no interference/favoritism to any active union at the workplace;
3. define the disciplinary process should any violation to this policy occur; and
4. define the protocols of enhanced FOA policy to parties involved.”

The Third Party Complaint also included additional allegations of noncompliances regarding freedom of association and harassment or abuse not specifically identified in the IEV. These additional allegations and M.J. Soffe's response based on their assessment are:

- Allegation: SITS members are moved around to different production lines resulting in lower production performance/do not receive production bonuses.
  - M.J. Soffe assessment: Movement of employees is based on production schedules and orders.
- Allegation: SITS affiliates in the Packing Department are not provided the opportunity to work overtime.
  - M.J. Soffe assessment: Overtime in the Packing Department is on a voluntary basis.

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<sup>5</sup> The report of the IEV is available at [https://www.fairlabor.org/fla/go.asp?u=/pub/zTr5&tm=5&Rid=701&Fdn=11&Fna=46002203DV\\_El+Salvador.xlsx](https://www.fairlabor.org/fla/go.asp?u=/pub/zTr5&tm=5&Rid=701&Fdn=11&Fna=46002203DV_El+Salvador.xlsx)

- Allegation: Security personnel interfere with the arrival of SITS members when they are late a few minutes.
  - M.J. Soffe assessment: Payroll records do not indicate that SITS members have been docked pay for late arrival.
  
- Allegation: Loan program offered by Apple Tree is denied to SITS members.
  - M.J. Soffe assessment: Apple Tree owner stated that the loans are offered to employees that meet the requirements of the policy. M.J. Soffe will audit the loan program to verify that the policy is being complied with.
  
- Allegation: Security guards spy on SITS members.
  - M.J. Soffe assessment: Unable to confirm that this was occurring. Security personnel are rotated every two weeks in order to prevent guards from developing any kind of relationship with employees such that it would allow for the alleged surveillance.
  
- Allegation: SITS Board Members have not received feedback from Apple Tree management regarding complaints/issues they have raised.
  - M.J. Soffe assessment: Management reported that they hold monthly meetings with both unions separately and use these meetings to address issues raised. In a meeting with the M.J. Soffe assessment team, the President of the SITS union spoke positively of the monthly roundtable meetings, while in a separate meeting the Secretary of the SITS union confirmed that the meetings are held and cover all issues raised by the union.
  
- Allegation: SITS members are not provided paid leave.
  - M.J. Soffe assessment: There are several types of leave and there may be some confusion on the policies and procedures for each. Management will ensure that workers are trained more effectively regarding paid/unpaid leave regulation and requirements.
  
- Allegation: Verbal harassment by the HR Director.
  - M.J. Soffe response: Unable to corroborate this allegation.

### **COMPLAINANTS' RESPONSE TO COMPANY'S ASSESSMENT RESULTS**

On May 26, the FLA convened a meeting with the complainants to inform them about the company's assessment and proposed remediation plan. The complainants reported that security guards had stopped spying on SITS members but there have not been changes with respect to the other issues. The complainants indicated that monthly meetings with management were continuously delayed and did not serve the purpose of addressing the SITS union's concerns.

The complainants were not aware that M.J. Soffe staff had visited the factory and had conducted an assessment, including worker interviews. The complainants stated that neither they nor SITS members were interviewed during this process. They were not aware that an ex-president of SITS and another SITS official were interviewed for the assessment and that they had made statements refuting some of the allegations.

Finally, the complainants mentioned that a M.J. Soffe staff allegedly mentioned to an Apple Tree supervisor that M.J. Soffe intended to pull out their production from Apple Tree due to the complaint. The complainants reported that this rumor has circulated widely in the factory and they feared retaliation for submitting the complaint. The FLA notified the affiliated companies of the rumor and both companies clarified that it was without merit and they would take steps to correct the misinformation.

#### **CONCLUSION AND NEXT STEPS**

The combination of the IEV noncompliance findings from August 2010, and the findings from the assessment carried out by M.J. Soffe as part of this Third Party Complaint provide sufficient evidence that Freedom of Association noncompliances have occurred/are occurring at Apple Tree. As identified in the IEV and in M.J. Soffe's assessment, management allowing (directly or indirectly) the head of the STITAS union to roam freely and conduct union business during work hours for a prolonged period of time has most likely created the perception (real or not) among workers that the STITAS union is preferred by management. Remediation in the form of preventing the STITAS union leader from taking such actions during work hours is sound but it will take time to readjust the perception that the two unions can conduct their work on equal ground. Similarly, the remediation developed by the factory and M.J. Soffe with regard to the enhancement of FOA policies and procedures is also sound.

In order to ensure the implementation of the remediation plan, the FLA recommends that M.J. Soffe and Russell Brands create an ombudsman position at the factory for a trial period of three months. The role of the ombudsman would be to:

1. develop and/or fine-tune a remediation plan that would address not only the IEV findings but also those that emerged from the Third Party Complaint allegations;
2. monitor remediation implementation;
3. provide consulting services/advice to the unions and management on how to deal with labor relations issues;
4. receive grievances and seek remediation; and
5. report on the implementation progress of the remediation plan and outstanding issues.

The FLA will review the progress report prepared by the Ombudsman with the expectation that the case will be terminated at that time and a final report on the Third Party Complaint issued.