

FINAL REPORT

Third Party Complaint; Westtex (El Salvador)

August 22, 2017



FAIR LABOR
ASSOCIATION™

On December 14, 2016, the Fair Labor Association (FLA) received a Third Party Complaint from the Sindicato de la Industria Textil Salvadoreña (SITS) alleging violations of the FLA Workplace Code of Conduct at the factory Westtex Apparel, S.A. de C.V. (henceforth Westtex) in El Salvador. FLA-affiliated company Fruit of the Loom was sourcing from Westtex at the time of the complaint.

SITS alleged that a union leader with *fuero sindical* employment protection was unfairly dismissed, that work schedules did not allow workers sufficient time to take their meals, that production goals were too high for workers to meet within regular working hours, and that managers verbally abused workers. These allegations would appear to breach FLA Workplace Code of Conduct benchmarks in the areas of freedom of association, hours of work, and harassment or abuse.

The FLA accepted the complaint at Step 2 of the Third Party Complaint process. As such, Fruit of the Loom had a period of 45 days to conduct an assessment and inform the FLA of its findings and remedial actions within 45 days. Alternatively, Fruit of the Loom could waive its internal assessment and request that the FLA engage an independent expert to conduct the assessment. Fruit of the Loom chose to conduct its own investigation.

ASSESSMENT BY FRUIT OF THE LOOM

Fruit of the Loom staff conducted an assessment of the Third Party Complaint allegations, visiting the plant in January 2017. The findings of the assessment were the following:

1. The investigation conducted by Westtex's HR manager into the allegations that two managers had had used abusive language in their treatment of workers led to corrective actions. One supervisor, when confronted with findings that indicated she had behaved improperly quit her job and left the company. The second supervisor was admonished about improper actions and moved from the packaging area to the warehouse in a horizontal move. Investigation by management, including interviews of production workers, did not confirm the allegation that workers did not have sufficient time to have their meals. Similarly, interviews of production workers did not surface concerns about the ability of workers to achieve production goals within normal working hours.
2. Worker interviews were conducted by factory personnel accompanied by the Labor Relations and HR Manager for Central America and Mexico for Fruit of the Loom. With regard to issues involving the lunch period, interviews were conducted with a union leader

and another worker in which they clarified that they have 45 minutes for lunch, complying with the internal regulations of the factory. A visit to the cafeteria areas confirmed that workers have a clean place to take their lunch, where they can also buy lunch and drinks (food is brought by a vendor from a cafeteria external to the factory.)

Payroll records were reviewed confirming that the plant had not worked overtime for some months and also that high levels of efficiency had been achieved, evidencing the capability of workers to achieve production goals. A union leader interviewed during the visit confirmed they were not working overtime and that overtime in the plant is completely voluntary. Interviews with two other workers provided confirmation of their pay levels in accordance with production goals met. The announcement of the minimum wage increase for 2017 was made by management at the facility in collaboration with a union leader.

3. There were contradictory views regarding the facts of the departure from the factory of a worker who was a member of the union and may have had *fuero sindical* employment protection. The complainant alleged that the worker was dismissed in violation of national law that prohibits the dismissal of a worker while he or she enjoys *fuero sindical* as well as of FLA Workplace Code of Conduct, Compliance Benchmark Freedom of Association FOA.7, on Protection of Union Representatives.¹

¹ Compliance Benchmark FOA.7, states: “Employers shall comply with all relevant provisions where national laws provide special protection to workers or worker

The complainant introduced the official minutes of a meeting of the General Assembly of the SITS held on November 6, 2016, for the purpose of filling several union office vacancies for the period 2016-2017. One of the members elected to union office was Héctor Savier Pérez López, who was elected to the post of Secretary of Youth Affairs. Also provided by the complainant was a formal request by SITS to the Department of Social Organizations of the Ministry of Labor and Social Security of El Salvador dated November 8, 2016, requesting the issuance of credentials to individuals elected as union officers at the November 6 General Assembly. Finally, the complainant also provided a copy of the credential issued by the Ministry of Labor and Social Security to Héctor Savier Pérez López on December 1, 2016, indicating that he held the position of Secretary of Youth Affairs from the period November 6, 2016 to July 4, 2017.

The General Directorate of Labor Inspection of the Ministry of Labor and Social Security carried out an inspection at Westtex on March 2, 2017, to review the dismissal of Héctor Savier Pérez López, which occurred on November 23, 2016. According to management, Mr. Pérez López, who was hired on October 27, 2016 as an operator, did not meet the requirements of the job and therefore was dismissed during the probationary period. Management also argued that it was not aware that Mr. Pérez López

representatives engaged in a particular union activity (such as union formation) or to worker representatives with a particular status (such as founding union members or current union office holders).”

was a union leader at the time of the dismissal or that he had *fuero sindical* employment protection. The Labor Inspection report is inconclusive with respect to whether the dismissal of the worker was consistent or not with national law.²

Separately, Mr. Pérez López signed a document on March 9, 2017 before a Notary Public, in which he stated that he resigned from his job at Westtex on November 23, 2016, and did not have any claims against the company for unpaid salaries, vacations, Christmas bonuses, overtime, or any other consideration. We understand that the union leadership did not support the decision of the worker to resign.

The last payment made to Mr. Pérez López was for the last week he worked. It was deposited in his bank account at the time of dismissal since he did not accept it at that time. During the last meeting the worker had with the factory's lawyer, he signed a "finiquito" of resignation, stating he had no claims against the company. For the reasons above, there were no additional payments that needed to be made to him.

² FLA staff communicated directly with the Labor Inspection Department of the Ministry of Labor to seek clarification of the report that emerged from the March 2, 2017 inspection. The communication from the Labor Inspection Department, dated March 27, repeated the inconclusive arguments that had been included in the subject inspection report.

CONCLUSION AND NEXT STEPS

The assessment conducted by Fruit of the Loom confirmed allegations of abusive behavior by supervisors, which were remedied by the factory. The assessment did not confirm noncompliances with respect to allegations regarding insufficient time for workers to eat their mid-day meal and excessively high production quotas.

With respect to the allegation of violation of freedom of association of a dismissed worker who supposedly had *fuero sindical* employment protection, the findings of an inspection by the Ministry of Labor were inconclusive and moreover the claim was mooted by the resignation of the employee. Therefore, the FLA considers that the current Third Party Complaint has been completed.

The FLA urges Fruit of the Loom to work with Westtex to continue to develop the factory's policies and procedures governing harassment or abuse and grievances, ensuring that they are consistent with FLA benchmarks, and further to train managers, supervisors and workers on such procedures to ensure that the workplace is free of practices that adversely affect workers.