



**FINAL REPORT  
THIRD PARTY COMPLAINT  
IMPRESSION APPAREL (EL SALVADOR)**

On April 28, 2015, the trade unions Sindicato de Trabajadores de la Industrial del Vestir de El Salvador (STIVES) and Sindicato de Trabajadores y Trabajadoras de la Industria Maquiladora, de Comercialización, Servicios y Afines de El Salvador (SITRAIMES), both affiliated with the Federación de Asociaciones de Sindicatos Independientes de El Salvador (FEASIES), the Sindicato General de Costureras (SGC), and the Federación Sindical de El Salvador (FESS) filed a Third Party Complaint with the Fair Labor Association (FLA) alleging that the factory Impression Apparel Group S.A. de C.V. (hereinafter "Impression Apparel") was not in compliance with several benchmarks of the FLA Workplace Code of Conduct. The main allegations made by the complainants, and the specific FLA compliance benchmarks applicable (in parenthesis), included:

1. Discriminatory application of disciplinary rules by the Human Resources Manager against union members; similar discrimination with respect to the distribution of baskets of goods to workers (FOA.5).
2. Use of temporary labor contracts (three to six months duration) for permanent positions in order to avoid payment of benefits to workers that accrue when employed beyond a year of service (ER.9).
3. Restraints on the exercise of freedom of association by, for example, dismissing workers who are found to be talking with union leaders (FOA.5).
4. Impediments to union activities by, for example, disciplining union leaders who receive complaints/suggestions from workers during working hours with salary deductions (FOA.15).

The complainants also referenced other issues at the factory, among them harsh attendance rules that penalize workers who arrive as little as one minute late for a shift with not being able to engage in overtime. Category C Licensee Tailgate Clothing sources from the factory.

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 Licensee has up to 45 days to investigate the alleged noncompliance internally and inform the FLA.

### **Assessment by Tailgate Clothing**

On June 17, 2015, Tailgate Clothing provided the FLA with a lengthy memorandum and supporting documentation regarding its investigation of the allegations contained in the Third Party Complaint. Tailgate Clothing submitted to the FLA the official results of an inspection conducted the Ministry of Labor on May 26, 2015, which found that the factory was in compliance with national law with respect to the timely payment of wages and of contributions to social security and, moreover, that the factory did not interfere with the right of workers to join organizations of their own choosing. Tailgate Clothing also submitted to the FLA the results of a thorough social compliance audit at the factory conducted on its behalf by a private social compliance firm. Based on the results of this audit, Tailgate Clothing developed a remediation

plan to address a number of issues that were the subject of the Third Party Complaint. As part of the remediation plan factory management committed to:

1. Training and evaluation of managers to ensure they are not showing preference for workers who are members of one labor organization over another.
2. Provide equal access to the workplace to any labor union, giving each employee freedom to choose which organization to join.
3. Monitor the hiring process to ensure that there is no discrimination or preference towards anyone affiliated with any particular labor union.
4. Observe, enforce, and comply with all local laws.
5. Follow proper legal procedures in hiring and termination of workers; develop policies and procedures to support hiring and termination processes.
6. Continue and financially support a Women's Empowerment Program, in which employees are trained on human rights.
7. Hold meetings within the factory for representatives from each department to voice concerns and complaints and share suggestion with management.

As the complainants reported no tangible improvements on the ground, and in fact brought to the FLA's attention additional allegations of violations of freedom of association, the FLA decided to move the complaint to Step 3 of the Third Party Complaint process and conduct additional assessment via a third party investigation commissioned by the FLA.

#### **Assessment by the FLA**

The FLA developed the following terms of reference for its investigation:

1. Investigate allegations of discriminatory application of disciplinary rules by the Human Resources Manager against union members and similar allegations of discrimination with respect to the distribution of baskets of goods to workers.
2. Investigate allegations of harassment of union leaders/members and abusive language against union leaders/members by management officials; Unions identified three supervisors as responsible for committing verbal abuse against workers and discriminating against union members by taking them out of the modules and refusing to assign them to any specific operation, so that other workers would perceive them as "lazy" workers.
3. Investigate allegations of use of temporary labor contracts (three to six months duration) for permanent positions in order to avoid payment of benefits to workers based on their seniority.
4. Investigate allegations of restraints on the exercise of freedom of association by, for example, dismissing workers who are found to be talking with union leaders.
5. Investigate allegations of impediments to union activities by, for example, disciplining union leaders who receive complaints/suggestions from workers during working hours by imposing salary deductions.
6. Investigate harsh attendance rules that penalize workers who arrive as little as one minute late for a shift with not being able to engage in overtime.
7. Investigate allegations of delayed payment of social security contribution that in turn has resulted in workers not having access to health services.

8. Investigate allegations of discrimination regarding the formation of the Health and Safety Committee.
9. Look into factory's new production process being implemented (unions identified it as Lean Manufacturing), that limits union leaves and sick and personal leaves.
10. Investigate allegations regarding arbitrary decisions by the Human Resources Manager as to which workers will receive medical attention at the factory clinic; also investigate allegations that clinic services are denied to some union leaders.
11. Investigate allegations that the factory refuses to provide union leave to union affiliates, so that they can attend trainings and other union activities out of the factory.
12. Investigate allegations that the factory has started turning on machines at 6:30 am, so workers can start working before the designated time (7:00 am), and this time is not compensated as overtime. Also, during lunchtime, some workers are not resting the full one hour; instead, they go back to work, and this working time is neither recorded nor paid.
13. Investigate complaints about unsanitary practices in food preparation at the canteen.
14. Investigate FESS's allegations that the factory is selling a considerable number of fabric rolls and this may be a strategy to declaring bankruptcy.
15. Review documentation and gather worker/management testimony regarding the factory not paying legally required compensation to workers during the night shift when they work more than seven hours, which exceeds the legal limit.
16. Investigate the claim that the factory decided not to work the night shift unilaterally and without previous notification, and in at least one instance the workers had to return to their homes when the night shift was cancelled and did not receive any compensation.
17. Review documentation and gather worker/management testimony regarding the complaint of a union leader who works as Quality Inspector whose salary has not be adjusted to account for the January 1, 2015, minimum wage increase.

The investigation by the independent expert selected by the FLA was scheduled for September 10 and 11, 2015. Tailgate Clothing was advised of the dates of the visit and the name of the investigator; Tailgate, in turn, advised the factory about the dates and the identity of the investigator. During the opening meeting, factory management indicated that they would not cooperate with the FLA investigator and therefore the investigation was terminated.

### **Conclusion**

The third-party investigation at Impression Apparel commissioned by the FLA as part of Step 3 of the Third Party Complaint Process was aborted because of the lack of cooperation from factory management. Efforts by Tailgate Clothing, a relatively small buyer from Impression Apparel, to work with factory management to reschedule the visit did not prove successful, as Impression Apparel management insisted that it would only agree to an investigation by a third-party investigator that met their criteria. The selection of the third party investigator is the prerogative of the FLA and is based purely on competence and impartiality of the investigators.

The refusal of the factory to allow the investigation to proceed is inconsistent with Principle 3.2 of the Principles of Fair Labor & Responsible Sourcing that obligates Tailgate Clothing to obtain the cooperation of its suppliers to facilitate assessments by the FLA and to actively contribute to consequent remediation activities. As indicated above, Tailgate Clothing properly informed the

factory about the upcoming visit by an investigator and arranged for access to the facilities. Upon learning about the decision of the factory to refuse access to the FLA investigator, Tailgate Clothing staff worked to persuade the company to permit the investigation to go forward but ultimately was unsuccessful.

Tailgate Clothing informed the FLA on September 23, 2015 that, as of that date, it had ceased to place collegiate apparel orders at Impression Apparel and moreover that it would no longer place any orders at Impression Apparel given the lack of cooperation from the factory. While we are sensitive to the impact that Tailgate's departure from Impression Apparel might have on workers at the factory, we believe that the supplier's refusal to cooperate left Tailgate Clothing with no viable options to continue the sourcing relationship. In view of these developments, FLA considers this case terminated.