

FINAL REPORT

Third Party Complaint; Style Avenue (El Salvador)

July 5, 2017



FAIR LABOR
ASSOCIATION™

On December 15, 2016, the Fair Labor Association (FLA) received a Third Party Complaint from the Federación Sindical de El Salvador (FESS) alleging violations of labor standards and of the FLA Workplace Code of Conduct at the factory Style Avenue, located in San Salvador, El Salvador. FLA-affiliated companies Outerstuff and College Kids were sourcing from the factory at the time of the complaint.

FESS alleged union discrimination and harassment against union leaders (including restrictions on grating leave for union leaders to attend to official union matters), deductions from worker earnings when they use medical leave, noncompliance with legal provisions regarding rest during holidays, lack of sanitation at the canteen, and other safety and health issues such as ineffectiveness of health and safety committees, absence of machinery maintenance, excessive heat/temperature at the production floor, and inadequate filtering system of drinking water. These allegations appeared to breach FLA Workplace Code of Conduct benchmarks in the areas of freedom of association, hours of work, discrimination, and health and safety.

The FLA accepted the complaint at Step 2 of the Third Party Complaint process. As such Outerstuff and College Kids were required to conduct an assessment of the allegations and inform the FLA of findings and remedial actions within 45 days. Alternatively, the brands could waive their own assessment in favor of an independent assessment by the FLA.

ACTIONS BY OUTERSTUFF AND COLLEGE KIDS

Outerstuff and College Kids conducted an assessment using an independent monitoring organization that is frequently used by FLA brands active in El Salvador. The independent monitor visited the Style Avenue facilities on January 17, 2017. In the context of the visit to the facility, the auditor:

- interviewed management representatives;
- reviewed HR and payroll records;
- walked through Style Avenue facilities;
- met with union officials; and
- interviewed workers, unionized and non-unionized.

PRINCIPAL ALLEGATIONS, FINDINGS, RECOMMENDATIONS, AND REMEDIAL ACTIONS

Allegation No. 1	Factory deducts from workers' salary all absences due to medical leave, when said leaves last three days or fewer, in contravention of a technical opinion by the Ministry of Labor stating that workers should be paid for absences for medical leave irrespective of time period covered.
Finding	Documentation, interviews with unionized and non-unionized workers, and with management yielded that the factory pays 75 percent of the first three days of medical leave not covered by social security only for a selected number of illnesses (work injury, urinary tract infections, dengue, zika, etc.) but not for others. Moreover, there is no written policy explaining the selection criteria for the diseases or setting forth that the policy should be applied uniformly.
Remedial Recommendation	Factory to develop uniform policies and procedures for the granting of payment for absences for medical leave, trains workers, supervisors, management and unions on this policy, and communicate the policy at all levels of the company.
Style Avenue Company Action Plan (CAP)	HR department has developed the policy for payment of workers for medical leave. The policy was announced to all workers through postings and training was offered to workers by March 2017.
Status of CAP Implementation	Complete.

Allegation No. 2	Factory does not comply with provisions related to rest during official holidays.
Finding	Assessment focused on allegation of failure to pay during official holiday on August 6, 2015. Management explained that it had offered workers a change in schedule in order to provide a three-day weekend. Documentation, interviews with unionized and non-unionized workers, and interviews with management yielded that workers were paid for the holiday on August 6, 2015, which was carried out by stages to workers in different work lines. Factory provided FLA with log sheets signed by workers verifying that they had received the amount due them.

Allegation No. 3	Salary payment is deposited too late in the designated day. Sometimes workers cannot withdraw money from ATMs until 6:00 pm, when the work day ended at 4:30 pm.
Finding	Documentation, interviews with unionized and non-unionized workers, and interviews with management yielded that payments were made after 4:00 pm on payday for 10 out of 15 biweekly periods from July 2016 to January 2017. This is not in compliance with national law and workers' employment contract, which require payment every 14 days, before the end of the working day, and payment in cash.

Remedial Recommendation	Factory to ensure that workers are paid biweekly and that the payment is made before the end of the work day on payday.
Style Avenue CAP	Management, accounting and payroll departments to make necessary arrangements to avoid delays in depositing funds to company's payroll accounting and improving the payroll technical system assuring that it is done a day before the payday and make sure that the salary of each worker is deposited into their personal account on or before 4:00 pm every payday.
Status of CAP Implementation	Documentation provided by the factory for a recent 10-pay-period interval showed that eight of the biweekly payments were made prior to 4:00 pm on the due date. The data refer to the period January to May 2017. Remediation in progress.

Allegation No. 4	Restrictions placed on certain union leaders to attend union activities out of the factory.
Finding	Assessors confirmed that the company does not keep up-to-date information and records of existing trade unions and of their officials, which can generate conflicts when granting permission to union leaders to carry out union-related activities. Assessor documented the existence of 9 unions in the factory, 3 more than the factory informed the assessor. It is evident that the large number of unions and the poor records kept by management creates the potential for union leaders not receiving permission to participate in allowable activities.
Remedial Recommendation	Management to improve its record-keeping on unions active in the factory and coordinate with unions on allowed absences.
Style Avenue CAP	On February 13, the general manager held a meeting with all 9 unions represented at the factory in order to: (1) assure union leaders about their participation in the factory; (2) update records regarding unions active in the factory; and (3) renew the practice of periodic meetings with all union organization at the factory. Henceforth, a general meeting with all union organizations will be held every four months; announcements of the meeting will be made in bulletin boards and agendas and minutes of the meetings will be kept.
Status of CAP Implementation	Completed.

Allegation No. 5	The canteen lacks sanitation on food preparation, and the conditions of the eating area are not adequate. The canteen also has arbitrarily increased the price of food. Owner of the canteen is rude with customers and verbally mistreats her employees at the canteen. Management has avoided taking any action to address the multiple complaints about the canteen.
-------------------------	---

Finding	During tour of the factory, assessor noted the following issues regarding the canteen: (1) improper storage of food in freezers; (2) meats and fish not labelled with date of purchase information; (3) abundance of flies in food preparation areas; (4) cooked and stored food without proper labelling; and (5) prepared foods stored in a freezer. Factory performed a service survey in June 2015 which yielded the following results suggesting that the majority of respondents found the level of hygiene of the food service to be just acceptable (56 percent), a plurality of respondents deemed prices to be high (41 percent), and a plurality also found service and treatment to be just acceptable (39 percent).
Remedial Recommendation	Management to improve quality and service performance of employee canteen.
Style Avenue CAP	The HR Department carried out a general satisfaction survey with canteen services on February 26. Based on results, management decided to discontinue contract with the existing vendor, "La Cocina de Mamá." Management is seeking new vendors who will meet sanitary requirements and provide improved services at prices that are suitable for factory workers. A month after the start of the new vendor, there will be a satisfaction service to confirm the quality of services being offered and to made improvements if needed.
Status of CAP Implementation	Factory hired a new company to operate the canteen. The new company, La Providencia Cafeteria, began to provide services on March 27, 2017. A survey of employee satisfaction with the new vendor was conducted in April and its results shared with the FLA. Completed.

Allegation No. 6	Health and safety committee is not functional.
Finding	Document review and interviews confirmed that the health and safety committee is not working: there is no evidence of inspections required by the committee; members of the committee do not wear a badge that identify them as such; committee does not have a coordinator and is managed by the HR department.
Remedial Recommendation	Factory to follow process in national law for creation and operation of safety and health committee set out in national law.
Style Avenue CAP	Factory conducted election for safety and health committee following prescriptions of the Law on Occupational Health and Safety. Newly-elected committee went to trainings at the Ministry of Labor on January 26 was received accreditation on January 31. Committee is scheduled to meet every month during the last week of the month to carry out inspections and develop a checklist of issues that need to be addressed. HR Department to keep minutes of meetings.
Status of CAP Implementation	Completed.

Allegation No. 7	Inadequate machine maintenance.
-------------------------	---------------------------------

Finding	Assessor verified that the company does not maintain adequate records of machinery maintenance. Records of maintenance activities showed that oil changes and basic maintenance conducted every three months. Incidents of fires raised by the complainant were investigated by the assessor and traced to improper actions by untrained personnel.
Remedial Recommendation	Factory to improve machinery maintenance record-keeping and to enhance training of production personnel on proper machinery use and safety measures.
Style Avenue CAP	Factory conducted training for all production personnel and employees working with machinery on the proper use of machinery and safety measures to avoid technical and electrical hazards. A preventive review of machinery operation of machinery was held to ensure that all machines are functioning well; machine technicians and electricians to be required to present a monthly report of machine maintenance; tag cards to be put on each machine for easier verification of maintenance.
Status of CAP Implementation	Completed.

Allegation No. 8	Factory is not regularly changing the filters of the drinking water purification system.
Finding	Assessor reviewed factory records and confirmed that water filter is changed monthly; moreover, records show that preventive and corrective maintenance is carried out monthly. Assessor also reviewed monthly bills of purchase for materials and filters for the water purification system.

Allegation No. 9	Factory is not in compliance with national law with respect to ambient temperature; factory ignores corrective actions recommended by the Ministry of Labor.
Finding	Assessor reviewed documents of inspections by the Ministry of Labor that show that the factory is in compliance with temperature requirements in national law. Moreover, assessor confirmed that factory has complied with recommendations from the Ministry of Labor with respect to this topic.

Allegation No. 10	Factory distributes toilet paper to workers monthly, but sometimes the delivery is delayed.
Finding	Assessor confirmed that factory purchases monthly the requisite amount of toilet paper. Assessor also confirmed through worker interviews, including with representatives of the complainant union, that four rolls of toilet paper per worker are distributed within the first week of each month.

In addition, the assessor made other findings related to compensation and hours of work that call for remediation by Style Avenue:

- Factory did not take into account the minimum wage increase effective January 1, 2017 in calculating the December 2016 collective vacation payment; for that reference period, 2 days should have been paid based on the new minimum wage. Factory has provided documentation showing that the discrepancy of vacation payment based on the new minimum wage was paid as part of the March 3, 2017 payroll. However, the documentation provided shows only payment of 167 workers and the amounts paid ranged from \$1 to \$5.62. The recommendation from the auditor was that all workers be paid for 2 days at the new minimum (an amount of \$5.62 per worker). **The remediation is in progress until the factory provides further corroborating information.**
- Document review and interviews confirmed that the payment of the contribution to the Institute of Social Security of the Armed Forces (IPSFA) was not processed on time in December 2016; four employees were affected. Factory made timely payments for social security contributions for January, February, March, and April 2017; payment for May 2017 was not processed on time. **The remediation plan is in progress until the factory makes timely payments for social security for a 12-month period.**
- Assessor found that when workers met the daily production goal, factory allowed them to leave the facility before the regular departing time (5:00 pm.) The guards kept a manual record of all these early departures, which management modifying the biometric clock records so that the payment system recognized that the employee worked 8 hours in that day. The conclusion of the assessor was that this procedure means that the factory does not have a reliable time recording system. Style Avenue management provided documentation indicating that it has modified the payroll system so that it now shows the actual time when an employee leaves the factory. **Remediation has been completed.**
- Document review confirmed that the factory increased production goals for each operation upon the entry into force of the 2017 minimum wage. Unionized workers point out that they cannot meet the newly established production targets and in consequence they are unable to reach the production bonuses. Factory has indicated that a combination of non-union and union workers work as a team on a sewing line and they work as a group to reach the production target. Documentation provided by factory management shows that from January 9, 2017 onwards, **sewing lines are reaching the newly established production targets and qualifying for bonuses within the regular working hours.**

FLA CONCLUSION AND NEXT STEPS

The assessment conducted by a third-party on behalf of Outerstuff and College Kids has confirmed a number of the allegations of noncompliance with the FLA Workplace Code of Conduct at Style Avenue raised in the Third Party Complaint. Style Avenue, working with Outerstuff and College Kids, has developed a remediation plan to address the findings identified by the assessor and many of the remedial actions have been implemented and the remediation completed. The FLA encourages Outerstuff and College Kids to continue working collaboratively with Style Avenue management to improve worker rights and working conditions at the factory, monitor implementation of the remediation items that are still in progress and report periodically to the FLA on their efforts to ensure that corrective actions in progress are followed through until completed.