

HOOSIER MANUFACTURING (GUATEMALA)
Brand-Commissioned Independent Investigation
Summary Report
March 7, 2022

The credibility, and the successful application, of FLA’s Third Party Complaint and Brand-Commissioned independent investigation mechanism depends heavily on the ability of the selected independent investigators to ensure that their reports are based on a robust investigative process and a thorough, objective analysis of the evidence. This often is a challenging task given conflicting accounts from different parties. And at times, it may necessitate setting aside initial assumptions concerning a “theory of the case” – if that proves to be at odds with what the investigator finds through a careful assessment of all of the information collected.

In his investigation and report concerning the Hoosier Manufacturing facility in Villa Nueva, Guatemala, Francisco Chicas has fulfilled the above standard to the highest degree. His careful collection and analysis of all of the information provided by workers, factory management, and others – including reevaluating certain claims in the wake of additional documentation – has resulted in a clear and objective set of findings, conclusions, and recommendations.

This is all the more notable given the challenging set of circumstances referenced in the investigator’s report – most remarkably what he describes as the “manipulation” of a group of workers that included payments made to an individual now facing criminal charges – as well as widespread inconsistencies in the accounts provided to him both by some of the workers and by Hoosier factory management.

This investigation was undertaken at the request of FLA-affiliated companies Fanatics Brands and Nike Inc.; it is thus what FLA refers to as a Brand-Commissioned independent investigation rather than a Third Party Complaint investigation. Aside from that terminology and the matter of who requested its initiation, however, the process followed – including the selection of the independent investigator, conduct of the investigation itself, and expectations concerning implementation and corrective actions concerning its recommendations – is the same. FLA greatly appreciates the active engagement of the two companies from the outset and their commitment now to ensuring that it leads to needed changes at the Hoosier Manufacturing facility.

The areas of the investigator's inquiry are summarized well in the Background section of his report and need not be repeated in full here. By the time FLA received the formal request from the affiliated companies to commission this independent investigation, the companies already had shared information about the termination of Hoosier workers in April 2021 – allegedly due to their efforts to organize a union at the factory. In addition, the workers communicated directly with FLA (and others) in writing concerning their dismissals.

Additional issues covered by the investigation and report pertain to activities during the second half of 2021, including the legal formation and registration of the SITRAHOOSIER union that was distinct from the activities from April, and the termination of three workers in October.

As noted above, the investigator's thorough review of the evidence presented revealed activities by the workers terminated in April – as well as later in the year – that called into question the narrative that those workers actually were seeking to legitimate form a union at Hoosier. As the report puts it, the workers in reality were involved in a "simulation" of a union organizing effort in order to achieve a very different objective: initially, receipt of enhanced severance payments and later, reinstatement with full payment of lost wages through activating extrajudicial remedies. And in the process, as the investigator highlights, they were "manipulated" by the former Hoosier worker -now facing criminal penalty- as well as by at least one other official who claimed to be helping their organizing efforts.

Yet this conduct by the dismissed workers does not absolve Hoosier factory management, whom the report finds failed to protect the workers' rights to freedom of association and in many other regards still lacks an adequate set of policies and procedures to address worker termination and other actions central to safeguarding workers' rights.

As noted in the Conclusions section of the report, the factory's "practice sends a negative message to these and other workers, in that the exercise of the rights to Freedom of Association and Collective Bargaining could either end up with a termination, or that the ultimate purpose of exercising such rights is to obtain an enhanced severance payment. Hence, there is a need for implementing some corrective actions." Moreover, the report finds factory conduct relating to the termination of three workers in October 2021 that violated Guatemalan labor law.

The recommended remedy for the workers terminated in April 2021 is rehiring (though not reinstatement with back pay, as the workers had sought) “based on the fact that Hoosier agreed to their terminations with an anti-union animus, and that they experienced manipulation by other parties.” That approach reflects the investigator’s balancing of the equities and reflection that those 25 workers, while not blameless, still merit an opportunity to regain employment at Hoosier.

Notably, there is a separate recommendation that the three workers illegally terminated in October 2021 should be reinstated and retroactively paid their full lost wages. Subsequent to submission of the report, the investigator and FLA learned that those three workers now have been reinstated by the factory with back pay for lost wages. That is certainly a positive signal concerning a willingness by the factory to accept responsibility and implement needed corrective actions.

All of the above, as set out in much greater detail in the investigator’s report, reinforces the fact that workers in the apparel sector in Guatemala – as in so many other countries – are vulnerable both to actions of factory management and to potential ill-treatment by other parties. This bolsters the case for joint action to secure the protection of workers’ rights and improved working conditions. The “manipulation” described in the report, focused on the conduct of two individuals in particular, should not discourage workers in Guatemala and elsewhere from pursuing legitimate efforts to form a union. That perspective certainly is shared by the investigator – as reflected in this report and his other extensive body of work.

The FLA welcomes the full engagement of its affiliated companies Fanatics Brands and Nike Inc., beginning with their request for this investigation and continuing through their review of the investigator’s findings, conclusions, and recommendations. Both companies have reaffirmed their commitment to engage actively with Hoosier Manufacturing management to press for full implementation of the report’s recommendations.

This is essential not only to ensure that the affected workers receive the redress set forth in the report’s recommendations, but also that the factory establishes a set of policies and procedures to lessen the likelihood of future noncompliance with standards governing workers’ rights, with a particular focus on promoting and protecting Freedom of Association and improving workplace conditions.