

SUMMARY REPORT

Third Party Complaint, Bienno S.A. Guatemala

May 11, 2020

On January 31, 2020, the Fair Labor Association (FLA) received a Third Party Complaint with respect to the factory *Bienno Sociedad Anónima Guatemala* (hereinafter, “Bienno” or “the factory”) filed by the *Comité Ad Hoc de trabajadores de Bienno S.A.* (Bienno Workers Ad Hoc Committee) (hereinafter, “Ad Hoc Committee”).

The complainants alleged a range of workers’ rights violations in the factory centering on failure to pay workers’ wages on time, non-payment of social security contributions, and including freedom of association violations and discrimination against members of their organization. If substantiated, the allegations would violate a number of FLA Benchmarks related to Compensation, Non-Discrimination, and Freedom of Association.

The complainants alleged that three FLA-affiliated companies were sourcing from the factory. However, upon further examination, the FLA was able to confirm that only Hanesbrands Inc (hereinafter, “Hanesbrands”) sourced from the factory as of the time the complaint was submitted¹.

The FLA informed Hanesbrands on February 11, 2020 that the Complaint had been accepted and moved to Step 2 of the Third Party Complaint process. Under Step 2, the affiliated company has up to 45 days to address the allegations and submit a report to the FLA with an assessment and potential remediation steps. Alternatively, the affiliated company may waive the company investigation and move the case to Step 3 under the process, in which case the FLA then would hire an independent third party investigator to conduct an investigation.

Hanesbrands opted to conduct its own assessment of the allegations and engaged an external independent auditor to conduct an *in situ* visit at the factory and carry out relevant interviews with factory management and workers, including all members of the Ad Hoc Committee.

The auditor centered his assessment on the allegations filed by the complainants, but also implemented a full social compliance audit based on Hanesbrands’ established standards. After the auditor completed his work, Hanesbrands submitted a summary report to the FLA on March 11, 2020.

¹ According to Hanesbrands, its sourcing from the factory represents only one percent of Bienno’s total manufacturing capacity.

ASSESSMENT AND KEY FINDINGS

The above-referenced assessment process confirmed a number of cases of noncompliance with FLA standards:

- ***Failure to pay social security contributions on time***

The auditor reviewed the factory's social security contributions for 2018, 2019, and January and February 2020, and his assessment confirmed that Bienno systematically failed to pay contributions to the Guatemalan Social Security Institute (IGSS). In 2018, the factory failed to make any payments at all. In 2019, it missed making payments in January, February, July, August, and September, and only made payments in March to 83 workers and April to 82 workers. The auditor did find that for January and February 2020 the payments were made in full and on time.

- ***Delay in wage payments***

During the assessment, the auditor confirmed that there had been some delays in paying workers' wages on time. From a random sample of pay periods for 2018, 2019 and 2020, he identified at least six instances where wage payments were delayed:

	<i>Pay period</i>	<i>Pay date</i>
1	January 16-31, 2020	February 05, 2020
2	June 16-30, 2019	July 05, 2019
3	January 16-31, 2019	February 05, 2019
4	November 01-15, 2018	November 20, 2018
5	July 01-15, 2018	July 20, 2018
6	February 01-15, 2018	February 20, 2018

Moreover, 90 percent of the 25 workers he interviewed reported that during 2019 and early 2020, the factory was delayed an average of one week in its payments. At the same time, according to the auditor, by the time of his assessment the factory was up to date on all wage payments (including regular wages, overtime, and bonuses), and no additional delays were occurring.

- ***Drinking water quality***

During the auditor's interviews with workers, including members of the Ad Hoc Committee, only three workers reported that the water sometimes tasted or smelled bad. The factory admitted that it has not been conducting regular tests but showed evidence that it has been replacing the filters. The factory has only two installed drinking water fountains.

- ***Freedom of Association and discrimination against members of the Ad Hoc Committee.***

The auditor interviewed the eleven members of Ad Hoc Committee through three group interviews: two with four members each, and one with the remaining three members. During the interviews the members focused on the same allegations as contained in the Third Party Complaint. With respect to the freedom of association and discrimination issues, the members of the Ad Hoc Committee expressed that they do not have the same opportunity to work overtime as their coworkers. However, the auditor during his payroll review confirmed that at least half of the Committee members in fact have been working overtime.

The auditor also found that the factory does not have a clear established procedure indicating the criteria for selecting workers to work overtime. In addition, he found that the factory does not have written policies and procedures concerning freedom of association, and that workers have not been trained with respect to either freedom of association or non-discrimination policies.

REMEDIATION ACTIONS

Hanesbrands has developed a remediation plan designed to address all of the allegations contained in the Complaint filed with the FLA, and also for those additional findings identified through the social compliance audit that it conducted through the hired auditor.

With respect to the allegations included in the Third Party Complaint, the factory has implemented the following:

- Payment agreement with the IGSS for 2018 contributions, while working on an additional agreement for what it is owed for 2019. Based on these agreements, the IGSS will continue providing full medical coverage to all workers.

At the same time, the factory has not yet completed other remediation actions:

- Resuming regular testing of the drinking water available for workers;
- Creating a written procedure on overtime, including by indicating the criteria selected;
- Establishing policies and procedures regarding freedom of association, and training workers accordingly; and
- Training workers on non-discrimination policies.

After the Guatemalan Government on March 16, 2020 announced a nationwide lockdown due to the spread of the Covid-19 virus and suspended the operations of all non-essential businesses, including in the garment sector, the factory shut down operations and management suspended all employment contracts. Implementation of the remaining remediation actions has been put on hold, and Hanesbrands reports that it has not been able to engage any further with factory management with respect to that process.

ADDITIONAL ALLEGATIONS BY THE COMPLAINANTS

In early March 2020, the complainants submitted new allegations to the FLA and Hanesbrands. These new allegations center on alleged anti-union actions by factory management against some members of the Ad Hoc Committee after the assessment was completed. They allege that the working schedules of nine Committee members were changed abruptly and without any explanation from management, and that the factory took that decision in retaliation for the complaint and to prevent those workers from seeking the factory's compliance with the law.

The factory has verbally denied, through a communication with Hanesbrands, taking decisions against the members of the Ad Hoc Committee in retaliation for the complaint filed with the FLA.

In addition, the complainants allege that the factory's action in suspending all employment contracts on March 23, 2020 occurred without the authorization of the Ministry of Labor, as they state is required by Guatemalan law.

Hanesbrands has not been able to undertake an assessment of these new allegations due to the impossibility of sending an auditor to the factory – given the shutdown and national travel restrictions.

Hanesbrands has engaged with COVERCO, a Guatemalan labor rights organization that monitors working conditions in the garment sector, including at Bienno, in an effort to learn more about the allegations. On April 14, 2020, after a request from the FLA, COVERCO provided a list with the names of the nine workers whose work schedules have been changed illegally according to the Ad Hoc Committee.

CONCLUSION

The assessment conducted by Hanesbrands confirmed many of the allegations included in the Third Party Complaint. Hanesbrands then developed a remediation plan intended to address the findings, but its implementation was put on hold due to the factory's shutdown a few weeks after the assessment was completed.

As of the time of this report, it remains uncertain when the Guatemalan Government will reopen the economy and the garment sector will be allowed to restart operations.

The FLA encourages Hanesbrands, as circumstances permit, to make all the efforts to work jointly with the factory in implementation of the elements of the remediation plan not yet completed, including to ensure compliance with FLA Freedom of Association and Non-Discrimination Benchmarks. That process should also include all efforts undertaken to assess the new allegations made by the complainants that were not part of the original Third Party Complaint. Hanesbrands should report to the FLA concerning any progress made in, or obstacles to, implementation of the remediation actions.