



WORKER RIGHTS CONSORTIUM

To: WRC Affiliate Universities and Colleges

From: Scott Nova and Jessica Champagne

Date: June 16, 2015

Re: Collegiate Supplier on Better Factories Cambodia's "Low Compliance" List

Better Factories Cambodia ("BFC") has identified H2 Garment Co., Ltd ("H2 Garment"), a factory in Phnom Penh, Cambodia, as committing a number of workers' rights violations, including failure to pay appropriate wages and several health and safety violations. H2 Garment has failed to respond to communications from the WRC. Instead, the factory has changed its name to Sigil Garment, raising concerns that the factory is attempting to avoid pressure to improve its practices.

The licensee Lakeshirts discloses this factory as producing collegiate apparel, but reports that this disclosure is inaccurate and that there is no current Lakeshirts production in the factory. Given this, it is unclear whether Lakeshirts and H2 Garment have a current relationship. By disclosing this factory as producing collegiate apparel, however, Lakeshirts has created an expectation by workers that the company will act to prevent and remedy violations of its code of conduct. The WRC expects Lakeshirts to take action to ensure that these violations are remedied in accordance with university codes of conduct.

Background

Lakeshirts has disclosed the factory (as "Yong Hui (H2) Garment Co Ltd") since October 2013; Lakeshirts produces collegiate licensed apparel under its private label, Blue 84. H2 Garment also produces non-collegiate apparel for Youngchen Enterprise, Planet Gold (a brand sold at Macy's and Sears) and Ikeddi. According to its public listing at the Garment Manufacturers Association in Cambodia, H2 Garment is owned by Chinese investors.

H2 Garment appeared on BFC's Low Compliance Factory List in February 2015.¹ BFC is a project of the International Labour Organization and the International Finance Corporation; it was the first of the Better Work programs, which now exist in several garment-producing countries. In 2013, the WRC, together with the Stanford International Human Rights and Conflict Resolution Clinic, published *Monitoring in the Dark*, an analysis of BFC's monitoring

¹ See, ILO Better Factories, Low Compliance Factory List re H2 Garment.

http://betterfactories.org/transparency/en/issues/factory/185/low_compliance. BFC reports that these findings are based on a site visit conducted on September 17, 2014.

program. This report noted that, as of 2006, BFC had ceased reporting publicly on violations committed by individual factories. The Stanford clinic and the WRC identified lack of transparency as one of the key weaknesses of BFC's efforts to increase compliance, and recommended that BFC increase its transparency, in particular by publicly reporting factory-level findings.

Subsequent to the report, BFC began to publish more factory-level findings, including a "low compliance list" of factories that have been found to be out of compliance in a significant number of areas. Factories that appear on this list not only were found to be out of compliance during a BFC audit, but also failed to improve in the period following the audit. Since this public reporting began, several low-compliance factories have shown improvement, a promising sign that this increased transparency may be motivating factories to improve.

BFC Findings

BFC reported that H2 Garment has consistently failed to comply with BFC standards, which are based on Cambodian law and international standards, in the following ten areas:

1. Discrimination against workers during hiring, employment, or termination;
2. Incorrect payment of the minimum wage;
3. Failure to correctly calculate bonuses, allowances and leave;
4. Failure to store chemicals properly;
5. Failure to label chemicals properly;
6. Failure to provide exhaust ventilation where chemicals are used;
7. Failure to provide personal protective equipment when required;
8. Incorrect payment of severance;
9. Excessive overtime of more than two hours per day; and
10. Failure to pay out unused annual leave upon termination.

Each of these violations would also constitute a violation of university codes of conduct, which require compliance with Cambodian law and international labor standards. As described below, the WRC cannot yet report independent findings as the factory has not cooperated with the WRC's investigation. However, while we have expressed concerns about the Better Work programs' failure to detect certain types of violations in various countries in the past, we have never had cause to question any violations identified by BFC. In addition, the categories of violations found at H2 Garment are areas in which Better Work has significant expertise.

Factory Response

On March 13, 2015, the WRC wrote to the managing director of H2 Garment and requested a copy of the latest full audit report made by BFC, the company's corrective action plan including steps taken to date, and additional information necessary to assess compliance with university codes.

H2 Garment did not respond to the WRC. Rather, shortly after this, the company changed its name to Sigil Garment. Workers report that the factory initially changed the name posted at the

factory gate, and then proceeded to change workers' ID cards to reflect the new name. It is unclear at this point in time whether this change of name has affected workers' seniority, and by extension, their rights to legally entitled benefits accrued according to seniority.²

Licensee Response

Lakeshirts denies that the company sources product from H2 Garment. The company reported that any apparel from H2 Garment would have been sourced through the firm Leonard A. Feinberg, Inc. ("Leonard Feinberg"), and provided the WRC with a letter from Leonard Feinberg stating that "we have no records showing that we have ever dealt with this factory." The 2015 disclosure data citing H2 Garment was provided to the WRC by the Licensing Resource Group ("LRG"), which represents a number of WRC affiliate universities; the LRG reports that Lakeshirts acknowledged production in the factory in 2013.

Neither Lakeshirts nor the LRG have provided any explanation as to the discrepancy between the initial disclosure and Lakeshirts' current denial of a relationship to the factory. The LRG reports that it is in the process of improving its processes with regard to disclosure data, but has not yet provided any explanation of what steps are being taken. The WRC will continue to engage with the LRG regarding the quality of the factory disclosure data that the firm provides on behalf of universities.

Current Status

H2 Garment's failure to cooperate with BFC and respond to the WRC, and its transformation into Sigil Garment, strongly suggest that the company may be attempting to change its name rather than changing its practices. The BFC findings and the company's failure to cooperate with the WRC raise serious compliance concerns.

It is unclear whether Lakeshirts and H2 Garment have a current relationship. By disclosing this factory as producing collegiate apparel, however, Lakeshirts has created an expectation by workers that the company will act to prevent and remedy violations of its code of conduct. Given this, the WRC expects Lakeshirts to take action to ensure that these violations are remedied, including, but not limited to, engaging with other buyers and considering returning production to the factory if it addresses the violations identified by BFC.

The WRC will also contact the other buyers directly.

² See, Cambodian Labor Law, §87 ("[I]f a change occurs in the legal status of the employer, particularly by succession or inheritance, sale, merger or transference of funds to form a company, all labor contracts in effect on the day of the change remain binding between the new employer and the workers of the former enterprise. The contracts cannot be terminated except under the conditions laid down in the present Section. The closing of an enterprise, except for acts of God, does not release the employer from his obligations as stated in this section three. Bankruptcy and judicial liquidation are not considered as acts of God.").