

# **Worker Rights Consortium 2013-2014**



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# New Affiliates Since 2013 University Caucus Meeting

- University of Oklahoma
- University of Southern California
- Tufts University
- University of Birmingham
- University of Pittsburgh
- Yale University
- Eastern Illinois University
- Nova Scotia Community College



# **Factory Investigations 2013-2014**



# JoeAnne Dominicana

Santiago, Dominican Republic



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# WRC Investigation

- JoeAnne produced collegiate apparel for Franklin Sports, and non-collegiate apparel for adidas
- WRC launched an investigation in response to complaint from workers in 2013
- Findings: Seven workers terminated for actual or perceived union activities, violation of Dominican law and university codes
- Factory refused to cooperate with WRC investigation; WRC contacted buyers to take corrective action
- Buyer Response:
  - Franklin Sports failed to respond
  - Adidas declined to act pending the outcome of its own investigation



# Outcome

- Six of the seven fired workers were reinstated with backpay six months after the violation occurred
- Failure to prevent or immediately correct these violations exacerbates the damage done to workers' associational rights
- Part of an ongoing pattern of illegal retaliatory dismissals that licensees' own labor rights programs have failed to prevent



# Current Status

- Management and the union have worked jointly to address workplace issues after union filed complaint with Ministry of Labor
- Management continues to express verbal anti-union animus





# Yue Yuen

Guangdong, China



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# Yue Yuen

- Manufacturing arm of Pou Chen Group, largest athletic shoe manufacturer in the world
- Produces 300 million pairs of shoes per year
- Buyers include Nike, adidas, Reebok, Asics, New Balance, Puma, Converse, Merrell, Salomon, and Timberland (VF)
- Pou Chen is a Fair Labor Association participating supplier
- 400,000 employees in Taiwan, China, Indonesia, Vietnam, Bangladesh, Cambodia, the United States, and Mexico
- History of workers' rights violations



# Yue Yuen

## Guangdong Province

- Approximately 45,000 employees
- Produces collegiate licensed shoes for Nike and adidas



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# Violations

- Failure to make legally required payments into public social security system
  - Social security provides funds for workers in case of disability, unemployment, or retirement
  - Employers and workers pay in
  - The less money the company pays, the less money workers get
  - Estimated underpayment: \$26.5 million per year
- Alleged underpayment of legally mandated housing benefits



# Worker Response

- Individual worker complaints produce no resolution
- April 5: Workers launch first strike
- April 14: Workers launch second strike
- Estimated 30,000 workers participate
- Physical blockading of workers from participating in strike
- US\$27 million cost to Yue Yuen







# Arrests of workers and advocates

- NGO advocate Zhang Zhiru: detained and released
- NGO advocate Lin Dong: still detained
- Reports of workers arrested and detained





# Nike response

- April 11: “We will have additional information to share with you early next week. “
- April 17: “We are reviewing the situation internally and will get back to you shortly with a response to your questions.”
- April 25: “This is a complex situation and we are continuing to gather information. We will follow up....”





# Adidas response

- “It is our understanding that the social security contributions which YY had been providing... were in accordance with an agreement which they had reached with the Dongguan authorities and the local social insurance bureau.”
- Denies media reports that adidas pulled production from Yue Yuen
- Contacted local authorities re detainees



# Failure of Brand Audits

- Easy-to-detect, longstanding violation allowed to persist
- Adidas: Failure to disclose collegiate shoe production



# Partial resolution

- Ministry of Human Resources and Social Security: Yue Yuen did not make legally required payments
- Employer commitment to pay appropriate social security benefits and new \$37 monthly allowance
- Lack of resolution re back payments
- Majority of workers back at work
- Reports of police presence at plant to compel all workers to return to the production lines



# Key Recommendations: Yue Yuen

- Provide legally mandated payments to employee benefit programs from this point forward;
- Provide retroactive payments;
- Provide workers with clear documentation, both for the retroactive payment and for all future payments, of the amounts paid and the calculations on which they are based;
- Provide workers with all contractually or legally mandated payments, including any such payments for food and housing; and
- Allow all strikers to return to work without penalty.



# Key Recommendations: Licensees

- Press for the release of Lin Dong and any Yue Yuen workers still in custody for exercising their associational rights
- Identify and correct the flaws in their auditing process that allowed Yue Yuen to avoid paying legally required social security payments without detection





# Manufacturas del Rio / Central American Cutting Center

El Salvador



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# MDR/CCC

- MDR produces collegiate apparel for Russell Athletic
- MDR and CCC produce non-collegiate apparel for Hanes, Lacoste, Levi Strauss (via Hampshire)
- Argus Group:
  - MDR/CCC (El Salvador)
  - Calypso (Nicaragua)
  - Kaltex Argus, formerly Atlantic - joint venture with Mexican firm Kaltex (Nicaragua)





# Labor-management relations: October-November 2013

- October 2013: Workers affiliated to FEASIES and STIT unions strike
- October 30, 2013: Factory management commits to negotiate a contract with the STIT union
- November 30, 2013: Plant manager indicates that his superiors are not willing to negotiate a contract and he is being transferred.
- Early December 2013: Plant manager reports that Argus has indicated it will not invest further resources in MDR/CCC.



# Factory Closure

- January 7, 2014: Workers arrive after vacation to find factory closed.
- Approximately 1,200 workers
- Workers owed at least \$1.6 million in severance, plus pay for final week
- Pension and health care funds owed \$30,000-60,000



# Management Announcement Distributed on Jan 7

“This [closure] is in response specifically to the financial and operational damage to the company and its clients caused by an illegal strike organized in the month of October 2013.”



# Freedom of Association Violation

- Why did the factory close?
  - Statements by transferred plant manager
  - Factory had reported financial difficulty to HBI and FOTL during 2013.
  - HBI and FOTL report that they did not decrease orders in late 2013.
  - Levi's licensee, Hampshire, placed new orders during that time.
- Conclusions:
  - Insufficient evidence to assess whether closure was retaliatory
  - Claim that factory was forced to close by economic impact of strike is not plausible, and resulted in chilling effect.



# Pressing for remediation



# The Argus Group: Co-founders

**Alfonso Hernandez**  
Argus Group  
Chairman & CEO  
El Salvador / Miami  
MDR/CCC President

**Roberto Bequillard**  
Argus Group  
President & COO  
Nicaragua / Miami  
MDR/CCC Alt. Director







EL INFRASCRITO SECRETARIO DE LA JUNTA GENERAL ORDINARIA DE ACCIONISTAS DE LA SOCIEDAD "MANUFACTURAS DEL RIO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE", QUE PUEDE ABREVIARSE "MANUFACTURAS DEL RIO, S.A. DE C.V.", CERTIFICA:

Que en el libro de actas que legalmente lleva esta sociedad, se encuentra asentada el acta número VEINTISIETE de fecha trece de marzo de dos mil trece, que corresponde a sesión celebrada en esta misma fecha, a las diez horas, en la cual se encuentra el punto TERCERO que dice que la Junta General de Accionistas aprueba reestructurar los miembros de la Junta Directiva de la sociedad, quedando integrada de la siguiente manera:

Director Presidente: José Alfonso Hernández Arce, de sesenta y dos años de edad, Empresario, de nacionalidad salvadoreña, del domicilio de Antigua Cuscatlán, Departamento de La Libertad con Documento Único de Identidad número cero cuatro siete dos ocho seis dos ocho - uno.

Director Secretario: Mario Ernesto Francisco Torres Romero, de cincuenta y ocho años de edad, Abogado y Notario, de nacionalidad Salvadoreña, del domicilio de San Salvador, Departamento de San Salvador, con Documento Único de Identidad número cero dos cero cinco dos siete tres dos - tres

Director Suplente: Roberto Benjamín Bequillard Elizondo, de cincuenta y cuatro años de edad, Ingeniero Industrial, de nacionalidad nicaragüense, del domicilio de Nicaragua, con Pasaporte Americano número cero cuatro siete ocho nueve cinco cero uno ocho.

Los miembros de la nueva Junta Directiva han sido electos para un período de SIETE AÑOS, a partir de la fecha de su elección y que vencerá el trece de marzo del año dos mil veinte; así mismo las personas anteriormente nombradas, manifiestan que aceptan los cargos para los cuales han sido electos.

Y para los efectos que se estime pertinentes, se extiende la presente en San Salvador, El Salvador, a los trece días del mes de marzo de dos mil trece.

ING. JOSE LUIS ANTONIO GADALA MARIA MONGE  
SECRETARIO DE LA JUNTA GENERAL DE ACCIONISTAS  
MANUFACTURAS DEL RÍO, S.A. DE C.V.

BOY FE: Que la firma que calza la anterior certificación es AUTENTICA por haber sido puesta en mi presencia por el Ingeniero JOSE LUIS ANTONIO GADALA MARIA MONGE, de cincuenta y cinco años de edad, Ingeniero Industrial, del domicilio de Antigua Cuscatlán, Departamento de La Libertad, a quien conozco, portador de su Documento Único de Identidad Número cero cero siete cinco uno cero uno cuatro cinco, en la ciudad de San Salvador, a los trece días del mes de Marzo del año dos mil trece.





# Argus Group Responses

- Bequillard: “I am not and never have been a legal representative of these enterprises, and never have had the power to represent either of them. I also have never been an employee of either of these companies and, so, it is not possible for me to respond to your particular request.”
- Hernandez: “I am sorry to say that I cannot help you because I no longer have anything to do with this firm. I understand that the former clients of MDR already have the information that you are requesting.”



# Buyers

- MDR/CCC buyers:
  - *Fruit of the Loom (Russell Athletic)*
  - Levi Strauss
  - Hanes
  - Lacoste
- Calypso and Kaltex Argus Buyers:
  - Levi Strauss
  - Carhartt
  - Cintas
  - Hybrid/Jem



# Remediation Commitment

- Workers have received pay for last week of work
- Verbal commitment from owner via Hanes to make workers whole
  - Prompt, complete payment will be essential
- Hanes: commitment to neutrality in hiring (59 workers hired)



# **Prolexus Bhd. Honsin Apparel (Malaysia)**

Human Rights Violations against Migrant Workers  
September – November 2013



# Prolexus Bhd.

- Garment manufacturer in Malaysia, longtime supplier of collegiate apparel, currently to Under Armour (at Plas Industries facility), formerly to Nike (at Honsin Apparel).
- Prolexus' Honsin Apparel facility currently supplies non-collegiate apparel to Under Armour, Nike, Li & Fung, and Haddad.
- Honsin Apparel facility employs approx. 1000 workers, mostly migrant workers, more than 200 from Cambodia.



# Abuse of Migrant Workers in Malaysian Apparel Sector

- As incomes have risen in Malaysia, garment factories increasingly rely on migrant workers from lower-wage countries – Burma, Cambodia, Indonesia, Vietnam, etc.
- Government sets strict regulations for migrant workers, aggressively arrests, imprisons and eventually deports those found in violation.
- Regulations abusive on their face (e.g., prohibit pregnancy), but even harsher in actual enforcement (imprisonment and deportation for practically *any* health condition).
- Employers take advantage of vulnerability of migrant workers to deduct exorbitant recruitment fees from pay.





# Background Information on 2013 Migrant Worker Detention Case

- July 2011 – 19 year-old Cambodian female worker travels to Malaysia and begins work at Prolexus' Honsin Apparel facility.
- Pays \$730 in wage deductions as recruitment fee during first 15 months at factory (approx. 30% of total wages).
- June 2013 – worker fails government-mandated annual health exam due to symptoms of urinary tract infection.
- Factory-selected physician provides OTC medicine to relieve symptoms, but not antibiotics to treat UTI.





# Jailing of Migrant Worker

- Mid-July 2013 – Worker re-tested but fails health exam (4 times) due to lack of treatment, work permit cancelled.
- Late August 2013 – Worker informed of permit cancellation and illegal status in country.
- Factory management suggests worker return to Cambodia via overland route used by sex traffickers, worker refuses.
- September 1 – Malaysian Home Minister announces crackdown to “flush-out illegal immigrants.”
- September 9 – Factory management takes worker to government immigration office to arrange return; *police arrest and jail worker.*



# Worker Sentenced to Prison Term

- Sept. 13 - Worker “tried” without legal counsel or interpretation, sentenced to 4 months imprisonment, to be followed by detention and deportation.
- Other Cambodian employees at factory go on strike to protest worker’s imprisonment.
- Cambodian workers contact WRC, Cambodian and Malaysian NGOs; WRC contacts Nike, Under Armour and Haddad.



# October 2013

- Worker's health deteriorates, but still not given medical treatment for UTI, physician consulted by WRC expresses concern.
- Local NGO learns prison release date set for November 30, to be followed by transfer to pre-deportation immigration detention center.
- WRC presses Nike, Under Armour, factory management to secure worker's early humanitarian release.



# Worker Released and Receives Medical Attention

- Case opened for re-hearing on October 30.
- Worker represented at rehearing by company lawyer.
- Judge orders immediate release.
- Worker examined by doctor, given antibiotic treatment.



# Worker Returns Home, Receives Compensation and Treatment

- Worker provided airfare for return to Cambodia, brother given leave from factory to accompany her.
- Company pays substantial compensation to worker for lost wages, medical treatment and hardship.
- Dec. 2013 - worker hospitalized for 7 days for ongoing treatment.
- Apr. 2014 - worker reports positive recovery.





# WRC Recommendations to Licensees Sourcing from Malaysia

- Ensure immediate medical treatment for migrant workers who “fail” health exams.
- To avoid arrest and detention, ensure prompt and safe return home for migrant workers who lose legal status.
- Prohibit and ensure compensation for recruitment fees paid by migrant workers through payroll deductions.



# PT Kizone (Indonesia)



# Resolution

- April 2013: adidas reaches a confidential agreement with the union representing the workers
- June 2013: adidas provides approximately \$1 million to workers
- Jan 2014: adidas provides approximately \$340,000 to workers



## PT Kizone: Summary of Compensation Legally Owed to Workers

	Amount in Indonesian Rupiah	Amount in U.S. Dollars
<b>Total Legally Owed Prior to Buyer Payments</b>	<b>30,745,783,649</b>	<b>\$3,097,778</b>
Funds Paid by Nike and Green Textile	13,815,182,160	\$1,521,000
Funds Paid by Dallas Cowboys	496,100,000	\$55,000
Funds Paid by adidas (estimated)	14,247,596,143	\$1,435,510
<b>Total Paid by Licensees and Others Buyers</b>	<b>28,558,878,303</b>	<b>\$3,011,510</b>
<b>Amount Still Legally Owed</b>	<b>2,186,905,346</b>	<b>\$220,341</b>
Amount Workers May Receive From Bankruptcy Proceedings or Payments Pursuant to adidas Agreement	≤6,427,153,433	≤\$647,565
<b>Amount Still Owed After Anticipated Payments</b>	---	---













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# Russell / Fruit of the Loom Agreement Implementation

Honduras



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# 2009 CGT-Russell Agreement

- Agreement between CGT (Honduran union) and Fruit of the Loom (Russell Athletics' parent company)
- Commitment to respect freedom of association in all Fruit factories in Honduras
- Created structure for labor-management relationship and dispute resolution
- Covered eight factories including Jerzees Nuevo Dia, Jerzees Buena Vista, VFI





# Jerzees Buena Vista

- Produces collegiate apparel
- Collective Bargaining Agreement signed October 2013
- Workers receive higher production bonuses, a free daily meal at lunchtime, additional vacation days, and free transportation to and from work.
- Both workers and their children are now eligible for educational funds and scholarships.
- Workers' older children (ages 12-17) receive health care, in addition to their younger children who already receive health care from Jerzees Buena Vista.



# VFI

- December 11, 2012: VFI workers form union.
- April 20, 2013: Union and management begin negotiating collective bargaining agreement
- January 22, 2014: Factory management notifies union that VFI will be converted from a 1,100-employee sewing facility into a distribution center with significantly fewer employees



# Positive Resolution: Union-Management Agreement

- February 18, 2014: VFI and union sign comprehensive agreement
- Laid-off workers will receive one year of health benefits and severance payments above the legal minimum
- Other Fruit plants will prioritize VFI workers in hiring.
- Fruit will continue to recognize the union and will work with the union to establish a fair process for layoffs



# Altagracia Project

Villa Altagracia, Dominican Republic



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# WRC Verification of Compliance

- Latest WRC report confirms continued exemplary compliance across all categories
- Living wage = \$504.67/month; minimum wage = \$148.36/month
- Occupational Health and Safety (OHS):
  - Technical skills training for OHS committee on machine guarding, fire prevention and response, electrical safety, and health program administration
  - Members of the OHS committee were trained to conduct their own safety inspections









# WRC Verification of Compliance

- Freedom of association:
  - Signed collective bargaining agreement; 4% annual raise to account for inflation
  - Additional benefits to be implemented as profits rise; low-interest credit cooperative, school supplies for workers' children
  - Donation of 5 computers for union-operated community learning center
- Diversification of production including Top of the World and likely expansion of workforce





# Researchers Document Positive Impact of Living Wage

- Research conducted by professors at UC Berkeley School of Public Health and Stanford University School of Medicine
- Comparison between workers from AG and a nearby t-shirt factory
- 47% reduced risk of clinical depression
- Leads to improved physical health, better outcomes for child growth, and increased productivity



# Researchers Document Positive Impact of Living Wage

- High scores in self-rated social status and health linked to:
  - Longer life expectancy
  - Decreased obesity and depression
  - Reduction in physical effects of stress and susceptibility to infection
- Altagracia workers had significantly higher scores in both measures
- Indicates that payment of living wage has strong long-term health impacts, esp. for women

