WORKER RIGHTS CONSORTIUM

Case Summary: Estofel S.A. (Guatemala)
April 1, 2009

The WRC worked jointly with the University of Washington and the FLA to address code of conduct violations at a factory in Guatemala called Estofel S.A. When the factory closed in November 2007, management failed to pay workers a large portion of the severance and other terminal compensation owed to them by law. Gear for Sports (a university licensee), Hanesbrands (a producer of apparel sold to university licensees), and the Ghim Li Group (a major apparel manufacturer) participated the remediation process.

The Estofel plant, located on the outskirts of Guatemala City, had been disclosed as a producer of university logo apparel for Team Edition Apparel and Gear for Sports (which produces Champion brand university logo apparel under license from Hanesbrands). It also produced non-collegiate apparel for Hanesbrands and Phillips Van Heusen, among other clients. The Estofel plant was previously owned by the Singapore-based multinational Ghim Li Group (GLG); it was subsequently spun off to a network of supplier plants known as GLIT, which is an independent entity, but which continues to produce for the Ghim Li Group.

The WRC conducted an investigation in response to a worker complaint alleging non-payment of severance and other legally mandated terminal compensation. In February 2008, the WRC held a meeting with and took testimony from the complainant workers, reviewed relevant documents, and communicated with factory management. Estofel was initially slow to cooperate in a meaningful way, but the WRC was ultimately able to meet with factory management in April 2008 along with a representative of Vestex, a Guatemalan trade association that has played an important role in the case. The company subsequently provided a range of documents that the WRC requested.

On the basis of the evidence gathered, the WRC found that upon closing the factory's two manufacturing units in October and November of 2007, Estofel had paid workers less than 50% of the severance and other terminal benefits due to them by law. The non-payment of terminal compensation affected nearly 1,000 workers. The company claimed that the workers were not entitled to full compensation because they signed documents accepting the partial payment in late 2007. The WRC's legal analysis, conducted with assistance from a recognized expert in Guatemalan employment law, concluded that the company's non-payment of full compensation represented a violation of Guatemalan law and applicable codes, because, in short, a worker cannot lawfully relinquish fundamental rights guaranteed to him or her by law. The inquiry also determined that the company used an inappropriate formula for calculating severance, thereby further underpaying workers. The findings were outlined in a memorandum to GLG on May 1, 2008 (and shortly prior in a communication to Estofel management).

The efforts of the University of Washington (UW) were central in this case. The WRC learned in mid-April 2008 that a field research project led by Professor Angelina Godoy, with a team of students from the university, had independently gathered information on the labor rights violations at the Estofel facility. In light of this research, the UW administration took a strong interest and leading role in working to address the violations. The UW administration helped convene an ad hoc group consisting of the WRC, FLA, Gear for Sports, Hanesbrands, and the Collegiate Licensing Company. The group began meeting regularly by telephone in May 2008 and continued to do so until payments to the workers in question were effected in late 2008 and early 2009.

Hanesbrands is a key business partner of Ghim Li and was a major buyer at Estofel. After becoming engaged in the case, Hanesbrands pressed Estofel and Ghim Li to fulfill their obligations. In July 2008, Ghim Li Group committed to ensuring that the workers would be paid the full terminal compensation due to them under Guatemalan law.

The WRC and FLA jointly engaged Coverco, a Guatemala-based labor rights monitoring organization, to determine the precise amounts owed to each worker. Coverco completed an initial report on July 31, 2008 and a revised report on August 21, 2008. Coverco found that at the time of their dismissal, the 974 former Estofel workers were owed compensation in the amount of Guatemalan Quetzales (Q) 11,106,599 (or US $1,398,320.81 at the February 1, 2009 interbank exchange rate).[1] The company had already paid Q3,868,618 ($490,153.90).

Estofel ultimately agreed to provide workers with compensation as calculated by Coverco, with the exception of one element: a provision known as “indirect labor benefits” or “economic advantages.” The company conditioned payment on each worker’s agreement to drop lawsuits filed in the Guatemalan Court.

The WRC worked with Coverco and the FLA to design an outreach program to reach the workers owed compensation and to inform them of the offer of payment. Because of the significant time that had elapsed since their dismissals, a significant outreach effort was needed. Coverco’s work in this regard included the placement of advertisements in Guatemalan newspapers and collaboration with an ad hoc leadership committee of former Estofel workers.

Coverco was ultimately able to reach nearly 95% of the 974 workers identified in its August 2008 report. An additional eleven out of thirteen workers subsequently identified as being due compensation were also reached. In total, between December 4, 2008, when payments began, and February 20, 2009, the closing date set by Estofel for the payment

[1] All figures presented in this document are based on the February 1, 2009 interbank exchange rate: 1 Quetzal = $ 0.1259. Note that minor revisions to the August 2008 Coverco estimates were subsequently made as additional information and documentation from Estofel were made available.

period, 871 workers received compensation, with the total amounting to (Q) 4,114,490.60 ($534,236.37).