



WORKER RIGHTS CONSORTIUM

To: WRC Affiliate Universities and Colleges

From: Scott Nova and Jessica Champagne

Date: August 9, 2013

Re: Distribution of Funds to PT Kizone Workers as per the Union's Agreement with Adidas

We write to update you on the PT Kizone case. This memorandum reports on the recent distribution of funds, provided by adidas, to PT Kizone workers; the WRC's analysis, based on the amounts distributed to workers, of the likely overall value of the settlement; our conclusions about code compliance, arising from this analysis; the impact on workers and their families of the decision of adidas to pay the workers; and our concern about adidas' decision to insist on keeping the terms of its settlement with the union confidential from universities and their monitoring agents, including the WRC.

Please note that we have included, in this memo, photographs of the funds distribution process, which may be of interest.

WRC Estimate re Amount of Distributed Funds

On April 22, 2013, adidas and the union representing the former PT Kizone workers reached an agreement in principle in which adidas committed to provide a substantial sum of money to the workers. This was subsequently codified in a written agreement. On June 10-12, the union distributed the funds provided, to date, by adidas.

The WRC has been limited in our ability to report to universities on this agreement because adidas has insisted that the contents of the agreement, which resolved pending legal proceedings between the union and adidas,¹ remain secret. However, while the union leadership was prevented from informing the WRC of the total sum provided due to adidas' insistence on secrecy, individual workers were not constrained from informing the WRC of the amount they had personally received. Thus, the June distribution provided an op-

¹ The union had intervened as a third-party-in-interest in a lawsuit originally brought by the University of Wisconsin against adidas seeking a declaratory judgment that adidas had violated the university's code of conduct. Following the settlement between the union and adidas, the university withdrew its lawsuit on June 3, 2013.



A Kizone worker who became a union leader shakes hands with a worker who has just verified her allocation.

portunity for the WRC to develop a clearer picture of the contents of the remediation package upon which adidas and the union agreed.

In order to provide universities with as much information as possible about the payments made by adidas to the former Kizone workers, the WRC interviewed 31 workers at the distribution site in order to arrive at an estimate of the total amount of money distributed to all 2,664 workers. Based on our calculations, the WRC concludes that the total sum provided by adidas was approximately \$1.02 million (Rp 10.085 billion),² which is 32.8% of the total amount due workers at time of closure. As a result of this and prior distributions from other PT Kizone buyers, workers have now received 82% of the original severance benefits they had earned – with additional payments pending, as explained below.

The WRC used the following method to calculate the aggregate amount paid:

Each of the 31 workers interviewed by the WRC reported the sum they had received. The WRC was able to compare these numbers with the amount legally owed to each worker. Both the union and the WRC have used calculations performed by the Ministry of Manpower as a reference for how much individual workers are owed. The union informed the WRC that it would be dividing the total sum provided by adidas such that each worker received an amount proportional to the total amount that s/he was owed at the time of closure based on these Ministry calculations. For example, if adidas had provided 50% of the total amount initially owed, each worker would have been allocated 50% of the amount that individual worker was initially owed.

By dividing the amount a given worker received by the amount that the worker had been initially owed, the WRC was able to calculate what percentage of the initially owed amount each worker had received.



A Kizone worker and her child collecting their allocation and speaking with WRC investigators.

The resulting percentages were between 31.55% and 33.62%. This range of percentages is believed to be due to the rounding methodology described below. The average (mean) of the 31 figures was 32.8%. As the total amount due to workers at the time of closure was \$3.1 million at current exchange rates (Rp 30.746 billion), the WRC then calculated 32.8% of Rp 30.746 billion. The resulting figure, \$1.02 million (Rp 10.085 billion), is our estimate of the total amount provided by adidas to all 2,664 workers to date.

Amount Owed to Workers

Out of the \$3.1 million initially owed, workers had already received nearly 50% from other buyers. As shown in the chart below, this means that, with the addition of the funds from adidas distributed in June, the workers have now received 82% of their legally mandated severance benefits and are owed \$639,780 (Rp 6.350 billion), or 18.0% of the original total.

²All conversions in this document, unless otherwise noted, were calculated at the exchange rate on June 28, 2013, which was US\$1:Rp9,925.11.

Amount Owed After Additional Payments

Former Kizone workers have reported that they have been informed by the union's leadership that adidas may provide a second tranche of funds, contingent on the outcome of PT Kizone's bankruptcy process. As the WRC has previously reported, this process may provide as much as \$647,565 (Rp 6.427 billion) in additional funds to the PT Kizone workers. The Indonesian courts have not yet issued a final ruling on whether the workers will receive all, some, or none of this amount, which the courts allocated to the workers in an initial ruling that is currently under appeal by PT Kizone's other creditors.

Given that workers have been informed that there may be a second payment depending on the outcome of the bankruptcy process, it is reasonable to anticipate that adidas, under its agreement with the union, has likely committed to provide workers with additional funds *if they are not made whole by the bankruptcy process*, which hopefully would be sufficient to make the workers, at last, whole for the entire amount of severance benefits they are legally due.

PT Kizone: Summary of Compensation Legally Owed to Workers		
	Amount in Indonesian Rupiah	Amount in U.S. Dollars³
Severance and Reward Pay Legally Owed	26,120,052,816	\$ 2,631,714
Compensation Pay Legally Owed	3,918,007,922	\$ 394,757
Death Benefits Legally Owed	96,615,144	\$ 9,734
Resignation Benefits Legally Owed	611,107,767	\$ 61,572
Total Legally Owed Prior to Buyer Payments	30,745,783,649	\$ 3,097,778
Funds Paid by Nike and Green Textile ⁴	13,815,182,160	\$ 1,521,000
Funds Paid by Dallas Cowboys ⁵	496,100,000	\$ 55,000
Funds Paid by adidas (estimated)	10,084,617,037	\$ 1,016,071
Total Paid by Licensees and Other Buyers	24,395,899,197	\$ 2,592,071
Amount Still Legally Owed	6,349,884,452	\$ 639,780
Amount Due From Bankruptcy Proceedings or Anticipated Additional Payment by adidas	6,349,884,452 - 6,427,153,433	\$ 639,780 - \$647,565
Amount Still Owed After Further Anticipated Payments	0	\$ 0

³Since the debt to the workers and the sums that they have received are denominated in rupiah, the rupiah value is regarded by the WRC as the determining figure. The dollar value of the remaining obligations to the workers at any given time will fluctuate with the exchange rate; the rupiah value stays constant. All calculations were performed using rupiah.

⁴The rupiah value given for the Nike and Green Textile contributions is calculated using an exchange rate from the time period when the funds were transferred into rupiah, Rp 9028.96

⁵The rupiah value given for the Dallas Cowboys contribution is the real amount received in rupiah for distribution, after currency exchange by bank.

Assessment of Compliance

We conclude from our analysis of the June distribution that adidas has paid \$1.02 million to the PT Kizone workers, leaving \$639,780 to be paid. Workers may receive an additional \$647,565 from the bankruptcy proceedings, pending the outcome of appeals, which would make them whole for the entire amount of severance benefits they are due. As explained above, we see a reasonable basis for assuming that adidas has committed to pay additional sums to the workers, in the event that workers do not receive the bankruptcy funds, and that these additional sums would be sufficient to make workers whole, in that event.

In addition, the union representing the PT Kizone workers has reported to the WRC that it considers the agreement with adidas to constitute a satisfactory resolution to the case. This is a union that has shown itself, over a period of years, to be a faithful and effective advocate for these workers.

Thus, while we could not conclude, on the basis of the union's assurances alone, that the code violations have been remedied, the combination of those assurances and the information gathered from our analysis of the June distribution, including the indications that additional payments will be forthcoming if needed to replace unpaid bankruptcy funds, creates a sufficient basis for us to conclude that the combined efforts of the university licensees are sufficient to remedy the violations of university labor codes at PT Kizone. We would much prefer to be able to state this with the certitude that a full assessment of the specific terms of the settlement would allow. However, in the absence of access to the settlement terms, we nonetheless see a sufficient basis for concluding that the case is resolved.

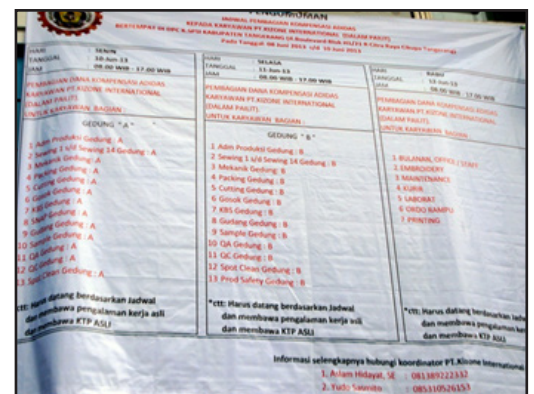
Distribution Process

While the union was prohibited by the confidentiality agreement from sharing the full calculations with the WRC, the WRC provided technical assistance in designing the process and monitored the proceedings on June 10-12.

This initial distribution took place in the office of the union that represented the Kizone workers, the DPC TSK SPSI, in Tangerang. Given the volume of workers, the distribution process was spread out over three days (June 10-12) with different groups of workers assigned to each day to reduce wait times. Out of the 2,664 eligible former PT Kizone workers, 2,429 individuals received their payment during the first three days.

As of June 20, an additional 163 workers had collected their funds from the DPC, for a total of 2,592 workers. This represents 97% of the former Kizone workers. The union reports that workers will continue to be able to claim the funds allocated to them from the DPC office in the coming months. The union has decided to keep these funds available at least until there is a decision from the courts regarding the bankruptcy. If additional funds are allocated to the workers through the bankruptcy process, the DPC intends to use this as a second opportunity to provide any remaining workers with their funds from the adidas distribution.

The union informed the workers about this distribution through a number of methods; most workers report learning about the distribution through text messages from their colleagues and from banners that the union posted in prominent public places in neighborhoods with a high concentration of PT Kizone workers.



This banner, posted outside the union office, informs workers which day to present themselves according to their work area at Kizone.



Workers wait outside the union office for their turn to enter and collect their allocation.

As noted above, the union calculated the amount due to each worker based on the official legal data from the Ministry of Manpower. When workers came to collect their money, they reviewed the data for accuracy. They were then handed an envelope with their name and the amount they were owed written on the front and money inside. They were asked to count their money in front of the union coordinating committee members who were conducting the distribution to ensure the accuracy of the payment. Nearly all workers reported that the data was correct and that the money they were given was correct as well, rounded to the nearest Rp 500 (five U.S. cents). Workers told the WRC that this rounding was appropriate because the smallest common denomination of coins is Rp 500. Thus, any smaller amount would be difficult to distribute and was viewed by workers as negligible.

The WRC observed one case where an error was identified by a worker. This error was appropriately reported and resolved. As the Ministry had provided the data in hard copy, the union had undertaken the task of typing all of the figures into a spreadsheet to perform the appropriate calculations in preparation for the distribution. In this case, a worker identified a discrepancy between the union's data and the government data. The union rectified the error in their records and ensured that the worker received her proper payment.

In general, while some workers reported lengthy wait times, overall the distribution process was smooth and successful.

Representatives from adidas were also present as witnesses during part of the distribution.

Impact

The funds distributed to the Kizone workers will be of vast benefit to them and their families. During the distribution, the air of excitement and celebration were palpable as the workers, many of whom were carrying small children, lined up for their funds.

During the distribution, WRC investigators interviewed workers regarding their plans for using the money they had received. Unsurprisingly, the majority of workers reported that they would use the money for their children's needs. Specifically, 13 of the 31 workers interviewed reported that they intended primarily to use the funds to pay school fees; four additional workers reported that they would use the funds to pay for milk or other needs related to their children. The rest reported that they would use the funds to pay debts accrued since the closure, to pay for their families' daily needs, or to open a small business such as a neighborhood food stand. The 31 workers interviewed received between \$98 (Rp 980,000) and \$848 (Rp 8.4 million), depending on their wage rate and years of service.

Mukinah, a 46-year-old woman who had worked at Kizone for 15 years, told a WRC investigator, “I am grateful to G-d, because in my whole life, I have never held this much money. Now, we have experienced the bitter and the sweet since Kizone’s closure. Sometimes I was sick, but still had to work to get money. My husband died while I still worked at Kizone, and I have had to support two children in school.” Mukinah planned to use her money to pay the debts that she had accrued since Kizone closed.



Kizone worker Mukinah

Confidentiality: An Obstacle to Code Enforcement

As we have discussed, adidas insisted in this case that the Kizone workers’ union commit to nondisclosure of the terms of the settlement agreement. This has created an unusual barrier to our normal monitoring work for universities. While parties have the right to sign non-disclosure agreements when legal cases are resolved, such secrecy is inappropriate where the codes of conduct of universities and colleges that have a legitimate interest in the outcome of the dispute are concerned. When licensees refuse to disclose the details of remedial measures they have agreed to take, neither universities nor monitoring bodies such as the WRC can readily ascertain whether these measures are adequate to satisfy university codes of conduct. The WRC recommends that universities discourage licensees from reaching agreements, on matters related to university code compliance, that constrain either the licensees or worker representatives from sharing information with universities or monitoring organizations.



A Kizone worker and her child collecting their allocation.