



WORKER RIGHTS CONSORTIUM

From: Scott Nova [mailto:nova@workersrights.org]

Sent: Thursday, January 04, 2007 1:26 PM

Subject: Update: Hermosa (El Salvador)

Dear Colleagues,

On the Friday before Christmas, the FLA announced the creation of an "emergency fund" for the former employees of the Hermosa factory in El Salvador, with money contributed primarily by Hermosa's former customers, including adidas and Nike. As you know, Hermosa closed in May of 2005 without paying back wages and severance to 260 employees. The purpose of the emergency fund is to pay the workers part of the \$825,000 they are owed. The value of the fund is \$36,000. Reports from El Salvador indicate that \$33,000 of this amount was distributed on December 29, to 57 of the workers.

A number of universities have asked the WRC for our perspective on this news. We are very happy to see some money go to these workers. Any amount that the workers receive is a positive development and we applaud the FLA's efforts in persuading the licensees to act. We also applaud the efforts of the workers themselves and of the numerous advocacy groups that have toiled over the last twenty months to keep this case alive. NGOs in the US and Europe have campaigned vigorously on behalf of the Hermosa workers and have consistently pressed adidas, Nike and the other brands involved to accept financial responsibility for the unpaid wages and severance.

I wish that we could report to you that the disbursement of these funds constitutes adequate remediation of the code violations at Hermosa, but unfortunately it does not. The funds paid represent 4% of the total owed to the 260 former Hermosa workers. (Most of the funds went, appropriately, to members of the core group of 63 workers who have pressed the case for remediation. The funds paid represent 20% of the amount owed to this smaller group of workers.) These percentages do not count interest on the unpaid wages and severance nor the additional \$350,000 in pension and health insurance contributions that Hermosa deducted from workers' paychecks but never paid to the government (for a discussion of the latter issue, see the WRC's update of [December 15](#)).

Thus, as the FLA notes in its statement of December 22, the fund will ameliorate the hardship faced by some of the former Hermosa workers, but it leaves the issue of unpaid severance and back wages still largely unresolved. Indeed, 96% percent of the money owed to the workers remains unpaid. The FLA has indicated that it will accept additional contributions to the fund – additional payments by the licensees and other brands are unquestionably the best hope the workers have for obtaining a more substantial percentage of what they are due, since meaningful action by Hermosa's owner and the Salvadoran government is very unlikely.

In summary, we are pleased to see the workers receive some money, but we recognize that the amount is small relative to what is owed and that the code violations at Hermosa therefore remain largely unremediated.

I have attached to this update a communication issued on [January 3](#) by the Clean Clothes Campaign (CCC), which may be of interest, as it provides an NGO perspective on the case. The CCC has helped to coordinate NGO efforts on Hermosa and has worked with the FLA, the WRC and the workers. We have also attached the FLA communication of [December 22](#), for those universities that may not have seen it.

Please let me know if you have any thoughts or questions about this update.

Best wishes for a happy new year,

Scott

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From: info@cleanclothes.org [<mailto:info@cleanclothes.org>]
Sent: Wednesday, January 03, 2007 12:15 PM
To: ccc-international@cleanclothes.org
Subject: [Cleanclothes] Hermosa: emergency fund set up and new action request

Dear friends,

We wish you a happy and successful 2007 and look forward to working together with all of you in our struggle to improve labour rights in the worldwide garment and sportswear industry.

In 2006 we have several times asked you to support the Hermosa workers, whose factory closed in May 2005 following an attempt to organize a union. A determined group of 63 workers has since been campaigning to receive their legally owed severance and other payments, and to end the blacklisting that prevents them from getting new jobs in the Maquila.

Brands sourcing from Hermosa, including Adidas, Nike and Walmart, were asked to contribute to a fund to cover their legally outstanding wages, overtime payments and severance pay; as well as to require their suppliers to hire the former Hermosa workers on a priority basis and address the ongoing hiring discrimination. They were also asked to pressure the Salvadoran government to fulfil the laws, ensure payment of the outstanding wages, overtime payments and severance pay; and respect the right to organize in a union. For earlier updates see: <http://www.cleanclothes.org/urgent/06-08-10.htm>

Emergency fund established: amount insufficient

We are pleased to report that some (small) progress has been made just before Christmas: the Fair Labor Association on December 22 reported they had established an emergency fund intended to "provide immediate and direct assistance to the workers while efforts continue to hold the government of El Salvador and the factory owner responsible for carrying out their legal obligations to workers". The fund, with an initial sum of 36,000 US\$, will be administered by the Fundacion de Estudios para la Aplicacion del Derecho (FESPAD), who has cooperated closely with the group of organized workers and with the other organisations involved in the case. Former Hermosa workers who have not been able to find employment, particularly because of blacklisting, will be eligible to receive the payments. FESPAD determines which of the former Hermosa workers who meet the above criteria.

FESPAD reports on 29 of December that 57 workers have been identified as eligible for assistance (all of whom belong to the group of 63 organized workers) and have received and cashed their cheques. Representatives of the organized workers were present and report that the process went smoothly and with total transparency.

While happy that the organized workers have received some relief during the holiday season, we are disappointed that the fund the FLA established is not intended to reimburse workers what they are legally owed, but consciously framed as a humanitarian aid gesture. It does not acknowledge that brands share responsibility for the current situation, where workers who for years were making their clothes are owed large sums of money. We're also very disappointed that the initial amount distributed (36,000 US\$) is so small compared to the amount legally owed to the workers. The organized group of 63 workers are owed at least 100,000 US\$ more. If the total group of ex-Hermosa workers are taken into account the amount due is over 825,000 US\$. The way the FLA fund is set up it would be open to all dismissed workers. According to the FLA a second distribution may be made if additional funds become available, but none have been confirmed.

In a statement on December 20 the group of organized workers says that they are willing to accept the offer "although it does not reflect in any way the hardships we have lived during this period, and it is not an indication of the good will of the brands in supporting our struggle.

Rather, it is a reaction to our pressure and struggle against so many injustices. The amount, in our view, is miserable compared to the profits that the brands make based on the sacrifice of workers and on violations of human and labor rights. We accept the amount, but nevertheless our struggle will continue to get the brands to guarantee in the near future the sustenance of our families through the opening of jobs in factories where work is done on products that the brands sell and on which they obtain profits of 300%.”

Brands need to do more: request for action

In their press statement FLA refers a number of times the responsibility of the owner and government to ensure workers receive their legally due payments, but is silent on the (co)responsibility of the brands.

In a reaction Maik Pflaum from the Christliche Initiative Romero (CIR) who has led the campaign for CCC for the past two years, says “Brands have a clear defined responsibility as they sourced over many years at Hermosa not detecting or even ignoring the labour law violations. This initial contribution is welcome but clearly insufficient. We expect additional contributions will follow shortly, and will continue to publicly call upon the brands to require their other El Salvador suppliers to hire the former Hermosa workers on a priority basis in order to facilitate these workers gaining employment and to address the illegal discrimination that has occurred. We also hope that the Hermosa case will help strengthening monitoring mechanisms of brands and FLA so violations can be detected in earlier stages, or better prevented ”.

We’d like to underline that the situation is far from resolved and call upon all of you to continue campaigning in support of the Hermosa workers. None of the group of organized workers have been able to find new jobs in the maquila. As indicated above, the workers are still owed substantial amounts, and still have no access to ISSS medical care system. More pressure is also needed on the government of El Salvador on these issues.

We call upon you once more to contact all the brands (adidas, Nike, Walmart, Puma, Russel Athletic and Pentland) and request them to:

- Contribute, or increase their contribution to the fund administered by Fespad until the workers have received their legally outstanding wages, overtime payments and severance pay;
- Require their suppliers to hire the former Hermosa workers on a priority basis in order to facilitate these workers gaining employment and to address the illegal discrimination that has occurred;
- Prevent further retaliation against these workers, in the form of intimidation and hiring discrimination;
- Pressure the Salvadoran government to fulfil the laws, ensure payment of the outstanding wages, overtime payments and severance pay and access to the ISSS medical care system; and respect the right to organize in a union.

Sample letter [names and addresses at bottom of message]

Dear former Hermosa buyer,

19 months since the sudden closure of their factory the workers that were involved in defending their rights at Hermosa are still without formal jobs, do not have access to ISSS medical system for employees that covers basic medical care unlike the free government health clinics, and have only received a very limited contribution to their outstanding wages, overtime payments or severance pay.

I understand some brands have made a contribution to an emergency fund set up by the Fair Labor Association, and while I appreciate the effort I am disappointed that the fund does not explicitly intend to cover the amounts legally due, and even more disappointed that the sum distributed so far is only 36.000\$.

This is clearly a pittance given the size of the companies involved, and completely insufficient to meet the amounts due. I am told the organized group of workers is owed at least 100.000 US\$ more, and the total amount due to all ex-Hermosa workers is over 825.000 US\$. I urge you to re-evaluate the amount you have paid so far, or if you have yet to contribute, to do so immediately.

The former Hermosa workers also continue to be discriminated against when applying for new jobs, and despite reassurances given in the past have not been given priority by any of your other suppliers when hiring new workers.

I urge you, as you have been urged many times before, to meet the demands of the workers to:

- Contribute, or increase your contribution to the fund administered by Fespad until the workers have received their legally outstanding wages, overtime payments and severance pay;
- Require their suppliers to hire the former Hermosa workers on a priority basis in order to facilitate these workers gaining employment and to address the illegal discrimination that has occurred;
- Prevent further retaliation against these workers, in the form of intimidation and hiring discrimination;
- Continue to pressure the Salvadoran government to fulfil the laws, ensure payment of the outstanding wages, overtime payments and severance pay; and respect the right to organize in a union.

I look forward to hearing what action you have taken in this case.

Names and addresses [the full action request will be available on our website shortly]

Wal-Mart (White stag): Rob Kusiciel and Rajan Kamalanathan:

Rob.Kusiciel@wal-mart.com, Rajan.Kamalanathan@wal-mart.com

Pentland: Lesley Roberts: Lroberts@pentland.com Russell Athletic: Ivan Viera:

Vieralvan@russellcorp.com

Adidas: Frank Henke: Frank.henke@adidas.de

Reebok: Doug Cahn: Doug.cahn@reebok.com

Nike: Dusty Kidd, Caitlin Morris: Dusty.kidd@nike.com, Caitlin.morris@nike.com

Puma: Reiner Hengstmann Reiner.Hengstmann@puma.com



For Immediate Release
December 22, 2006

Contact: Alex Wohl
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FLA Creates Emergency Fund For Hermosa Workers ***New Fund Part of Broader Long Term Effort to Restore Workers' Rights***

WASHINGTON, DC. – The Fair Labor Association (FLA) today announced the creation of an emergency fund to benefit the former workers of the Hermosa Manufacturing plant in El Salvador who have remained unemployed since last year, when the plant's local owner unilaterally closed its doors and left the employees without any financial compensation.

“Since the owner of the Hermosa plant left his workers high and dry, the FLA has been seeking a solution that would hold the factory owner and the government of El Salvador accountable for their legal obligations,” said Aurret van Heerden, FLA President and CEO. “The proceeds of the fund will provide workers with some financial support to meet basic needs such as food, housing, and medical care as we continue our efforts to get the company and the government to fulfill the legal, economic and human rights due these workers. Finding jobs for these workers remains a priority in order to provide them with sustainable support.”

The FLA emergency fund is an unprecedented action for FLA. The creation of the fund was proposed by van Heerden following consultation with the affected workers and solidarity groups and was approved by the FLA Board of Directors. It is intended to provide immediate and direct assistance to the workers while efforts continue to hold the government of El Salvador and the factory owner responsible for carrying out their legal obligations to workers. The FLA has also been working to ensure that other Salvadorean factories and employers do not participate in or tolerate a blacklist of former Hermosa employees.

The emergency fund is to be administered by the Fundacion de Estudios para la Aplicacion del Derecho (FESPAD), a non-governmental organization (NGO) based in El Salvador. FESPAD will identify the workers, who will receive support from the emergency fund. The fund will have an initial distribution of \$36,000, with payments to workers to be made by December 30, 2006. Fund contributors to date include both FLA and non-FLA affiliated companies and universities. Additional contributions will continue to be accepted until April 1. A second distribution will be made if additional funds become available.

In its efforts to resolve the Hermosa issue, including the development of the emergency fund, the FLA has consulted regularly with the Christian Initiative Romero, (CIR), the German-based

NGO affiliated with the workers rights group, Clean Clothes Campaign. The CIR brought the Hermosa case to the attention of the FLA in December 2005 through the FLA's Third Party Complaint procedure. The FLA and non-FLA affiliated companies have been involved since early 2006 in efforts to pressure the government of El Salvador and the former owner to meet their obligations to the workers. The FLA has issued an interim report on the Third Party Complaint investigation (http://www.fairlabor.org/all/complaint/Reports/Hermosa_InterimReport_8.25.06.pdf) and will release a final report when it is completed.

“I am very pleased that we were able to help these workers who have been failed by the labor laws and social security system and make their holiday season a little more tolerable,” said van Heerden, the FLA president. “But we will continue to seek full accountability from the government and the factory owners for these workers until they get the compensation they deserve.”

The FLA, which is made up of companies, colleges, universities, and non-governmental organizations, is dedicated to protecting the rights of workers around the world and ending sweatshop labor practices and unfair behaviors like that of the Hermosa plant owner. The FLA holds companies accountable to the Fair Labor Association Workplace Code of Conduct, monitors company practices, conducts factory inspections, and works with factories to create sustainable solutions that promote compliance and better labor practices.