

To: WRC Affiliate Colleges and Universities
From: Scott Nova and Jessica Champagne
Re: Successful Back Pay Distribution at Rio Garment (Honduras)
Date: August 4, 2017

This memorandum summarizes the remediation achieved by the Worker Rights Consortium (WRC) following violations that occurred at the Rio Garment factory, located in San Pedro Sula, Honduras. As reported in our memo on November 28, 2016, the factory, a supplier of university-licensed apparel, unexpectedly ended its operations on August 12, 2016, shuttering its operations overnight. When it closed, the factory failed to provide its 533 employees with more than \$1.3 million in severance pay and other benefits to which they were legally entitled.

In response to the WRC's reporting on this failure to provide legally required compensation, three key buyers, including university licensee Tailgate Clothing Company, provided a total of \$989,000 to remedy the violations. The other brands that contributed to this fund were Gap, Inc. and Gildan Activewear. Tailgate had disclosed Rio Garment as a supplier of collegiate licensed apparel. Gildan is a major supplier of blank T-shirts to university licensees and other firms, but this factory was not disclosed as producing Gildan shirts for licensees. A fourth factory buyer, Walmart, failed to participate in the remediation.



Together with the sale of goods and equipment left behind by the factory, the funds provided by the buyers equaled the nominal amount owed to workers. The WRC distributed the bulk of these funds to the former employees of Rio Garment in San Pedro Sula, Honduras, on April 27–30, 2017. The successful resolution of this case is a credit to Tailgate, Gap, and Gildan. It is also a credit to university codes of conduct. Wage theft, including failure to provide legally required

severance, is all too common in the garment industry and, particularly when the employer has closed its doors, it is rare for workers to receive restitution—to actually be paid the funds that they were illegally denied. University codes of conduct are one of the few mechanisms through which workers have repeatedly been successful in winning such restitution.

A short video detailing the successful remediation of the Rio Garment case is available online.

Findings and Recommendations

After learning about the closure of Rio Garment, the WRC conducted an investigation in order to determine the scope of violations. Through worker interviews and the collection of documentary evidence, the WRC determined that the closure had affected 533 workers, all of whom were owed severance pay and other legally-required terminal benefits.

The owner's failure to pay workers the funds they were owed represented a violation of Honduran law and, by extension, university codes of conduct. At the time of the closure, the factory owner, US-based David Gren, owed his employees several days of wages as well as legally-required severance pay and benefits. Honduran law requires all employers who sever the contract of an employee in a no-fault dismissal, including at the time of a factory closure, to pay severance (Honduran Labor Code, Article 114), advance notice or payment in lieu of notice (Honduran Labor Code, Article 102), unpaid vacation (Honduran Labor Code, Article 349), and any unpaid 13th and 14th month bonuses (Decrees Number 112 and 135-94, respectively). Under university codes of conduct, licensees have an obligation to ensure that legal violations are remedied; in cases of unpaid compensation, this requires ensuring that workers receive the sums that they are owed. The WRC confirmed the amount owed to each worker based on calculations performed by the Honduran Ministry of Labor.

Through this investigation, the WRC also identified additional funds owed to workers at the time of the closure. Workers reported to the WRC that, for a period of approximately five months prior to the factory closure, Rio Garment management had been deducting worker contributions to the Honduran health care system from workers' paychecks, but had not been depositing the money into the health care system. As a result, the workers were unable to access health care during this period, even though the payments were being deducted from their paychecks. Similarly, the factory made other deductions from workers' paychecks—including payments for a savings and loan cooperative and for municipal taxes—but did not deposit these contributions with the intended recipients. The WRC obtained documentation from the cooperative offices and from the local municipality confirming the amounts owed by Rio Garment.

Upon learning of the closure, the WRC contacted the factory owner, David Gren, and its key buyers. The WRC received no response from the owner, but was in close contact with the buyers as we conducted our investigation and confirmed the full amount owed.

The WRC recommended to Tailgate that it ensure that workers receive the full amount that they were legally owed. The WRC also conveyed the same recommendation to Gap, Gildan, and Walmart. While, unlike Tailgate, those firms were not, in this case, bound by university codes, they have each adopted their own codes of conduct and publicly committed to require that supplier factories comply with national law in the countries where they operate.

Buyer Engagement and Remediation

Tailgate Clothing Company, Gap, Inc., and Gildan Activewear actively engaged with the WRC to work toward remediation. A fourth buyer, Walmart, has not, to date, provided any substantive response to communications from the WRC or engaged in the remediation process.

The university licensee in this case, Tailgate, and Gap were both in regular communication with Gren immediately following the closure to make clear the factory's obligations to its workers. Gren initially claimed to these buyers that workers had received everything that they were owed. After the WRC documented the extensive amount still owed to workers, Gren refused to make the workers whole, but did ultimately take two steps that defrayed the total amount owed to workers.

Gren's willingness to take these positive steps resulted from communications by Tailgate and Gap and from the workers' own efforts to demand the funds owed them. Workers filed a lawsuit against both Gren and Gildan and also monitored the factory property to prevent the factory's assets from being removed from the site. After some months, Gren signed over the factory's equipment to the workers so that the equipment could be sold to raise funds toward a partial payment to workers. These goods were sold in February 2017 for approximately \$500,000, of which approximately \$355,500 was allocated to non-managerial workers and the remainder to managers. Given that Gren had no other known assets in Honduras, making it unlikely that the workers would be able to win additional funds through the Honduran courts, the workers agreed to drop their lawsuit against him in exchange for the release of these goods.

Gren also settled a much smaller claim filed by the savings and loan cooperative to recoup the costs he had deducted from workers' salaries but had failed to deposit with the cooperative. To settle this suit, he provided approximately \$30,000, which was credited to workers' respective accounts.

As it became clear that workers had exhausted their legal options for winning compensation directly from Gren, Tailgate agreed to contribute \$450,000 toward a fund established for the purpose of remedying the outstanding violations.

Gildan and Gap also provided significant contributions to this fund. Gap provided \$420,000, the amount of an outstanding invoice owed to Rio Garment at the time of the factory's closure, and

Gildan provided \$120,000 to the fund. Gildan also provided an additional sum to workers at the time of closure, the amount of which was based on an outstanding invoice from Rio Garment to workers, which compensated workers for their final days of work. These last days of work had not been paid by Rio Garment management.

The total amount contributed by the brands, together with the money generated by the sale of the factory equipment, means that non-managerial workers received the full amount that they were owed following the closure. The parties agreed that the costs of the distribution, compensation for an attorney retained by the workers, and a partial payment to managerial employees would be deducted from this total amount. This contribution to managers was necessary to ensure managers' cooperation in documenting the violations and to avoid potential security risks for the non-managerial workers.

Total Funds Secured

Source	Amount (in USD)
Tailgate	\$450,000
Gap	\$419,000
Gildan	\$120,000
Total Provided by Buyers	\$989,000
Total Secured from Owner/Assets	\$341,000
Total Funds Secured	\$1,330,000

The WRC notes that the amount paid to workers did not include the payment of interest. In cases such as Rio Garment, where money is owed to workers for a protracted period of time, the WRC recommends that workers be paid interest to compensate them for the months that they have been denied access to the money that was legally theirs. In light of the significant sum provided by Tailgate and the fact that workers received the full nominal amount owed, though, the WRC considers Tailgate to have acquitted its obligations under university codes of conduct.

Distribution of Funds

On April 27–30, 2017, the WRC distributed the funds to the former employees of Rio Garment. In order to ensure that the funds were equitably distributed to each of the





workers affected by the factory closure, the WRC prepared calculations of the amount owed to each worker. In order to do so, the WRC reviewed the Ministry of Labor severance calculations and other documents to determine the precise amount owed to each worker and then deducted from these calculations the payments that were made to workers from the money they received earlier in the year from the sale of equipment left behind at the factory.

After having calculated the total amount due to each worker, the WRC partnered with a Guatemalan organization, the Commission for the Verification of Codes of Conduct (COVERCO), to generate the checks and other paperwork to be signed by each worker and to distribute these checks to workers. The WRC ensured that workers were informed of the dates of the distribution, April 27–30, and the location of the distribution site. The WRC was present at the distribution site for the four days of the distribution and is pleased to report that the money was successfully distributed to all of the workers who came forward.

Of the 533 workers affected by the factory closure, a total of 530 have come forward to collect their checks during or after the distribution.¹ The WRC has now succeeded in locating the remaining three workers and is making arrangements to provide them with their funds.

On average, the Rio Garment workers received \$1,800 per person, the equivalent of more than four months of average wages for Honduran garment workers. These funds provided much-needed support for the workers and their families. It is important to recognize that, in Honduras, severance pay and other terminal benefits serve to provide an important safety net for workers when they lose their jobs, for whatever reason. The country does not operate any social insurance programs that would, in wealthier countries, fill the role played by



¹ A total of 522 workers came to collect their funds on the designated dates of the distribution. Of the remaining 11 workers, an additional eight workers, who did not respond to the first communication advising them of the dates of the distribution, came forward subsequently and received their funds on May 15, 2017.

unemployment to offer much-needed support to workers and their families during a time of transition between jobs.

The WRC recognizes the action taken by the university licensee, Tailgate Clothing Company, and by the other factory buyers, Gap and Gildan, in order to remedy the violations that occurred at their supplier factory.