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WORKER RIGHTS CONSORTIUM REPORT ON LD EL SALVADOR

FINDINGS, RECOMMENDATIONS, AND BRAND RESPONSE

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This report outlines violations of worker rights at a factory known as LD El Salvador ("LD"), which unexpectedly shuttered is operations in March 2018 and failed to pay its 824 employees approximately $2.3 million dollars in compensation that they were legally entitled to receive. LD produced goods – via an intermediary, Global Brands Group – for PVH (owner of Calvin Klein and Tommy Hilfiger), Walmart, Ralph Lauren, and Levi's. All of these brands publicly state that they require their suppliers to obey the law and all acknowledge that LD failed to so. However, more than one year after the closure, these brands have failed to take adequate measures to remedy the violations that they admit took place in their supply chains. As a result, nearly 75% of the compensation legally due to workers remains unpaid.

Global Brands Group (GBG) is a subsidiary of the Fung Group, which is the parent company of the massive apparel sourcing firm Li & Fung. Li & Fung serves as the buying agent for GBG. Like its business partners – PVH,[1] Levi's,[2] Ralph Lauren,[3] and Walmart[4] – GBG[5] has a labor rights code of conduct pledging respect for the legal rights of workers at the factories it utilizes.

On average, the LD workers have been robbed of more than $2,000 each, the equivalent of nearly seven months' wages. If the violations are not fully remedied, the social and economic consequences for workers' families will be severe and lasting.

Findings: Failure to Pay Legally Required Compensation

LD ceased operations on March 7, 2018. The closure, which was confirmed by Salvadoran news sources[6] and the Salvadoran government,[7] occurred following the sudden departure from El Salvador of the factory's Korean owner, Young Ryul Kim.

[1] PVH, "Code of Business Conduct and Ethics," https://www.pvh.com/investor-relations/governance/code-of-conduct.
[2] Levi Strauss & Company, "2017 Sustainability Guidebook," http://levistrauss.com/wp-content/uploads/2017/12/2017-Sustainability-Guidebook_December2017.pdf.
[3] Polo Ralph Lauren, "Operating Guidelines," https://www.poloralphlaurenfactorystore.com/us/en/helpdesk?language_content_entity=en.
[4] Massmart + Walmart, "Code of Ethical Conduct 2017" https://www.massmart.co.za/wp-content/uploads/2019/05/Code-of-Ethical-Conduct-English.pdf.
[5] Global Brands Group, "Global Supplier Principles," https://d1io3yog0oux5.cloudfront.net/globalbrandsgroup/files/GBG_Supplier_Principles.pdf.
[6] Solo Noticias, "Dueños de maquila abandonan el país y dejan sin indemnización y sin empleo a cerca de 1,000 personas," March 12, 2018, https://www.solonoticias.com/2018/03/12/duenos-de-maquila-abandonan-el-pais-y-dejan-sin-indemnizacion-y-sin-empleo-a-1000-personas/.
[7] Ministry of Labor and Social Provision of El Salvador, "Ministra de Trabajo acude a inspección ante posible cierre de maquila en San Marcos," March 13, 2018, http://www.mtps.gob.sv/noticias/ministra-trabajo-acude-inspeccion-ante-posible-cierre-maquila-san-marcos/.

Export data shows that the majority of LD's exports during the final year of operation were sent to a GBG supplier, KT Group, which publicly presented LD as a key element of its production network.[8] (KT Group also reported to the WRC that Paris Accessories, owned by Capital Mercury Apparel, was a factory customer.[9])

The Salvadoran Ministry of Labor estimated the total amount owed to LD workers at the time of closure at $2.3 million. This figure encompasses several categories of legally required compensation for the factory's 824 workers: their final two weeks' wages, severance equivalent to 30 days of the worker's base wage for each year of service,[10] compensation for unused vacation days,[11] and a prorated portion of the legally required year-end bonus.[12] Also, prior to the factory closure, the company deducted healthcare contributions from workers' pay that were supposed to be deposited with the Salvadoran national healthcare system,[13] but instead illegally pocketed the money while also failing to pay the required employer contributions.[14]

When it became clear that LD was not going to pay the workers and that its owner had fled the jurisdiction, factory workers formed a committee to represent them in dealings with the Salvadoran government and with factory buyers. The committee, which is made up of both production workers and office staff, filed a claim with the Salvadoran judicial system requesting that the factory employees be granted possession of the equipment and goods left behind by LD's owner. If the courts grant this request – and, to date, it has not – the LD workers may be able to recoup a modest fraction of what they are owed by liquidating the equipment and goods. While it is common in El Salvador for workers to pursue this avenue of recompense in such cases, it is the WRC's experience that the process to obtain such court authorization is lengthy, that the outcome is uncertain, and that, even in the best-case scenario, the amount of money generated is far too small to cover the total arrears. Indeed, more than one year after the workers filed their claim, their petition is still under review by the Salvadoran courts. It is not realistic, or fair to the workers, to expect the liquidation process to remedy the violations.

[8] In a May 4, 2018 phone interview with the WRC, the KT Group's Chief Executive Officer, Yujin Huh, stated that KT Group did not own the LD Factory. However, at that time, the KT Group's website stated that "Mr. Young Ryul Kim is president of KT Group's main factory, LD, located in El Salvador." (Screenshot of website on file with the WRC).
[9] May 4, 2018 phone conversation between the WRC and KT Group's CEO, Yujin Huh.
[10] Labor Code of El Salvador, Article 58.
[11] Ibid, Article 187.
[12] Ibid.
[13] Salvadoran Law on Social Security, Decree No. 1263 (1997).
[14] In an email to the WRC dated May 14, 2018, the KT Group confirmed that LD El Salvador owed the Salvadoran government more than $33,000 in healthcare contributions.

Seeking Corrective Action by the Brands

Having documented this violation of Salvadoran law and buyers' codes of conduct, the WRC, in May 2018, contacted the brands that produced garments at LD to inform them of the situation and to seek corrective action.

Since the direct employer was beyond the reach of the Salvadoran legal system, it was clear that any hope of delivering a just remedy to workers would require that the brands either pay the outstanding compensation themselves or require GBG (or, through GBG, the latter's vendor, KT Group), to do so. Over the past decade, similarly situated buyers at more than a dozen factories around the world have made payments, or directed business partners to make payments, to ensure the lawful compensation of affected workers.[15] This is appropriate and necessary, given the buyers' public promises, via their own codes of conduct, to ensure legal compliance at their supplier factories.

The WRC asked the buyers to pay the workers or direct GBG to do so. Worker representatives also informed a number of labor rights advocacy groups in North America of the WRC's findings and asked them to press the brands and GBG to pay the workers. These groups, including the Maquila Solidarity Network and the International Labor Rights Forum, conducted outreach to several of the brands and communicated their concerns directly to GBG.

Brand Response

In response to the WRC's communications, PVH, Ralph Lauren, Levi's, and Walmart all acknowledged that LD had failed to pay workers in accordance with the law and all reported that the production of their branded apparel at LD was arranged by GBG, which held licenses to produce apparel for each of these brands. These firms stated that, in their view, GBG, rather than the brands, was the party responsible for remedying the violations. PVH informed the WRC that it was in communication with its licensee, GBG, urging it to take steps to remedy the violation.[16] Ralph Lauren reported to the WRC,

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[15] Such contributions have been made or brokered by firms including Nike, adidas, Fruit of the Loom, Gildan, Gap, Tailgate, Hanesbrands, Disney, and Zephyr Graf-X. WRC reports on these cases can be found on our website, www.workersrights.org. See, for example, WRC, Memo to Affiliates on "Successful Back Pay Distribution at Rio Garment (Honduras), August 4, 2017, https://www.workersrights.org/wp-content/uploads/2018/01/WRC-Memo-re-Rio-Garment-Honduras-8.4.17.pdf; WRC, Memo to Affiliates on "Remediation of Severance Pay Violations at Han Apparel/Embroidery Ltd. (Bangladesh)," August 19, 2016, http://workersrights.org/freports/WRC%20Memo%20re%20Han%20Embroidery%208.19.16.pdf; and WRC, "Worker Rights Consortium Factory Assessment Reliable Source Industrial Co. Ltd. Cambo Yon Xin Garment Co. Ltd. (Cambodia)", January 19, 2017, https://www.workersrights.org/wp-content/uploads/2017/05/WRC-Assessment-re-Cambo-Yon-Xing-Cambodia-1.19.17.pdf.

[16] Phone conversation with Marissa Pagnani McGowan, Senior Vice President Corporate Responsibility, PVH Corp., July 17, 2018.

"[w]e remain steadfast in our commitment to the ethical treatment of workers and, as a result, have been in regular contact with our licensee, Global Brands Group." Ralph Lauren also informed the WRC, "GBG is taking responsibility for their sourcing choices as required by our licensing agreements, and we fully support their efforts to resolve the Chaps [Ralph Lauren] portion of the owed severance from the LD factory closure situation."[17] Levi's informed the WRC that it was "urging Global Brands Group (GBG) to secure the required payment for the workers."[18] Walmart stated that it was "taking action by engaging with our supplier . . . Walmart's Standards for Suppliers require that suppliers and their factories pay compensation and provide benefits in compliance with applicable law and agreements."[19]

The WRC also directly contacted GBG and its vendor, KT Group. GBG told the WRC that KT Group was seeking a solution to the violation and that GBG was working with its licensors and with the Fair Labor Association (FLA), an industry-funded non-governmental organization of which PVH is a member, to determine next steps.[20] The WRC advised the FLA of our position that the only proper remedy is payment of all funds legally due and we urged the FLA to hold PVH accountable. Unfortunately, it is not the FLA's policy to require its member companies to take direct financial responsibility for remedying wage theft at their supplier factories. After some communications in the summer of 2018, the WRC did not hear further from the FLA concerning LD.

In late 2018, after months of engagement by the WRC and other organizations, GBG communicated to workers that it would provide $200,000 to former LD employees. On September 17, 2018, worker representatives were contacted by GBG and informed that GBG would provide the workers with a "humanitarian donation" in this amount. Ten days later, on September 27, GBG again wrote to the worker committee and informed its members that, in partnership with the KT Group, the amount of the "donation" was being increased from $200,000 to $300,000.

The WRC communicated to the brands and GBG that a payment of $300,000 was grossly inadequate. We shared a draft of the present report with the buyers in December, outlining our conclusion that the brands have failed to act responsibly.

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[17] Email from David Uricoli, Vice President of Global Human Rights Compliance of the Ralph Lauren Corporation, July 3, 2018.
[18] Email from Josef Lukan, Senior Manager, Global Policy and Advocacy, Levi Strauss & Co., August 13, 2018.
[19] Letter from Walmart Senior Vice President Jan Saumweber to International Labor Rights Forum, November 20, 2018, shared by email with the WRC by Brendan Morrissey, Walmart's Senior Director for Governance and Responsible Sourcing on January 10, 2019.
[20] Email from Laura Wittman, Senior Vice President of Compliance of GBG to the WRC, May 15, 2018.

In January, PVH informed the WRC that GBG would increase the amount designated for its "humanitarian donation" to $600,000 – representing 26% of the amount legally owed.

While far short of a full remedy, the money was significant and desperately needed by workers. The worker committee agreed to accept the funds as an interim measure, while emphasizing that it will continue to seek full compensation from the brands. The committee proposed an independent agency in El Salvador to receive and distribute the funds, which were distributed to workers in March 2019. The committee determined that the funds should be divided equally among all of the affected workers and each worker received a payment of $728.15.

The payment of $600,000 is a step *toward* remediation of the violations, but falls far short of meeting the amount that must be provided in order for LD workers to be made whole. In paying this amount, GBG has effectively acknowledged its obligation to compensate the workers – but has chosen, with the tacit approval of the brands, to save itself money by paying them 26 cents on the dollar.

Brands like PVH are highly important business partners of the Fung Group. The most important relationships to the Group are the ones between the brands and Li & Fung. If the brands made future business with the entire Group, including Li & Fung, contingent on GBG paying the workers in full, GBG would almost certainly agree to do so – because the cost of not paying would become greater than the cost of paying.

The WRC asked PVH to take this step and PVH has refused. PVH also refuses to pay the workers directly.

Current Recommendations and Conclusion

LD closed without paying workers $2.3 million in wages, severance, and terminal benefits – compensation workers earned while producing apparel for PVH, Ralph Lauren, Walmart, GBG and other buyers. To date, 74% of this legally mandated compensation remains unpaid.

In El Salvador, where there is no unemployment insurance, severance payments provide a vital economic safety net to workers who have unexpectedly found themselves out of work. LD's failure to pay workers their due at the time of closure, and the brands' failure to fully remedy the violations for more than a year, has imposed serious hardship on 824 workers and their thousands of dependents. Many workers have been forced to take out high interest loans just to survive. The hardship has been only partly ameliorated by the paying of $600,000 by GBG and KT Group.

PVH, Walmart, Ralph Lauren, GBG and the other buyers and are jointly responsible, under their own labor codes, for remedying the wage theft that took place in their supply chains. This requires ensuring payment of the remaining $1.7 million.

There is no doubt about the wherewithal of these corporations to pay the money owed to workers. PVH reported $9.7 billion in revenue in 2018 and $764 million in profits.[21] It provided its CEO, Manny Chirico, $17 million in compensation last year[22] – one tenth of that would have been enough to pay the workers at LD the unpaid wages they earned sewing clothes at Mr. Chirico's behest. The Fung Group, which owns GBG, reported $22.66 billion in revenue in 2017.[23] Its Chairman, Victor Fung, has a net worth of $3.3 billion.[24] These companies have *acknowledged* the injustice perpetrated in their names and in violation of their labor codes. They can make workers whole at a cost that represents a rounding error on their balance sheets. They have chosen, instead, to leave the violations unremedied and have abandoned workers and their families to their fate.

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[21] PVH Annual Report 2018, https://www.pvh.com/~/media/PVH/Files/Investors/Reports/2018-PVH-Annual-Report.ashx

[22] Women's Wear Daily, "PVH's Emanuel Chirico Pay Tops $17M for Second Year in a Row," April 11, 2019 https://wwd.com/fashion-news/fashion-scoops/pvh-emanuel-chirico-pay-tops-17m-for-second-year-in-a-row-1203104737/

[23] Fung Group website, reviewed on October 14, 2018, https://www.funggroup.com/eng/about/.

[24] Forbes, "Hong Kong's 50 Richest 2018, https://www.forbes.com/profile/victor-william-fung/#63aabb357d7b.