WORKER RIGHTS CONSORTIUM

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FACTORY ASSESSMENT
PURE COTTON (USA)

FINDINGS, RECOMMENDATIONS, AND COMPANY RESPONSE

October 17, 2019

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I. Introduction and Executive Summary

This report concerns the Worker Rights Consortium's (WRC) findings regarding violations of university codes of conduct by Pure Cotton, a company located in Los Angeles, California, that supplied collegiate licensed apparel to the licensee, Hype & Vice, LLC (Hype & Vice), and commitments made by Hype & Vice to take corrective actions to resolve these violations. While most collegiate apparel is produced outside the United States, university licensees such as Hype & Vice do disclose a significant number of suppliers in southern California, which is the largest center of garment manufacturing remaining in the US, employing more than 45,000 workers.[1]

In September 2018, California state inspectors cited Pure Cotton, as well as several other business entities operating at the same physical address, including the factory, Union Supply, for violations of various California state labor laws, among them minimum wage standards.[2] Union Supply, was cited for $58,000 in penalties due to its workers for the company's failure to provide them with pay statements.[3] State labor inspectors informed the WRC that they suspected that much more significant additional wage-and-hour violations had been committed by Union Supply and the other contractors but reported that they were unable to gain the cooperation needed to complete a full wage audit.

When contacted by the WRC about these violations, Hype & Vice reported that Pure Cotton had denied that it had subcontracted production of the former's collegiate apparel to Union Supply or any of the other factories housed at the same address that had been cited by the state labor inspectors. However, state inspectors provided the WRC with convincing evidence, in the form of both photographs of Hype & Vice products found at Union Supply and documents from Pure Cotton recording its subcontracting of Hype & Vice's orders to this factory, as well as testimony from the inspectors, themselves, that proved Hype & Vice's collegiate apparel had, indeed, been produced by Union Supply.

Since university codes of conduct require all employers involved in the production of collegiate apparel, including both contractors and subcontractors, to comply with all applicable wage and hour laws, the violations cited by state inspectors at Union Supply contravened university labor standards.[4] The WRC learned from state labor inspectors, however, that there was no realistic

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[1] Margot Roosevelt, "Wage Theft is Common in Garment Factories in Southern California," *Los Angeles Daily News*, updated August 28, 2017, https://www.dailynews.com/2016/11/27/wage-theft-is-common-in-garment-manufacturing-in-southern-california/.

[2] Deborah Belgum, "Downtown LA Garment Factories Cited for Labor-Law Violations," *California Apparel News*, September 6, 2018, https://www.apparelnews.net/news/2018/sep/06/downtown-la-garment-factories-cited-labor-law-viol/.

[3] DLSE, "Wage Citation," Case No. 35-CM-602151-18, Citation No. WA 435967 (August 10, 2018) (citing Union Supply for $58,000 due to employees) (on file with WRC).

[4] IMG College Licensing, "Special Agreement regarding Labor Codes of Conduct," Sched. I (Labor Standards), §§ I (Introduction) ("The term "Licensee" shall for purposes of the Code, and unless otherwise specified in the Code, encompass all of Licensees' contractors, subcontractors or manufacturers which produce, assemble or package finished Licensed Articles for the consumer.") and II.A (Legal Compliance) ("Licensees must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the production or sale of Licensed Articles.").

prospect that the Union Supply would pay the penalties it had been assessed, and that, without intervention by other parties in the supply chain, there was no possibility workers would receive the funds they were owed.

Accordingly, the WRC recommended to Hype & Vice that it correct the violation of university codes of conduct that had occurred by making payment itself to Union Supply's workers of an amount equivalent to the fines assessed by the state inspectors. Hype & Vice, however, which is a small licensee with extremely limited resources, shared financial documents with the WRC which demonstrated that such a payment was well beyond the company's capacity. The WRC and Hype & Vice agreed, therefore, to a corrective action plan, wherein the licensee would pay workers half of the $58,000 in penalties over a 24-month period beginning in December 2019.

The WRC concluded that, given the circumstances, these commitments, once implemented, will fulfill Hype & Vice's obligations under university codes of conduct to take corrective action to address, to the extent reasonably practicable, the violations of wage-and-hour laws committed by this subcontractor to its supplier, Pure Cotton. Once the WRC established, via evidence gathered from state labor inspectors, that its collegiate apparel had been produced in the factories that had been cited for these violations, the licensee cooperated constructively with the WRC in developing the corrective action plan discussed in this report. Hype & Vice, which had already ended its business relationship with Pure Cotton, began sourcing from a different LA manufacturer and adopted greater due diligence in overseeing its production.

As this case illustrates, wage-and-hour violations are pervasive in the garment manufacturing sector in southern California. Recent enforcement actions by government regulators have found more than 80% of garment factories inspected in the region to be violating wage-and-hour laws, with some workers paid as little as one-third of the applicable legal minimum wage.[5]

Moreover, despite dedicated, though severely under-resourced, efforts by state and federal regulators, preventing and remedying labor rights violations in LA's garment factories remain highly challenging. Workers, many of them undocumented, are highly vulnerable to employer intimidation, and factory owners can often avoid accountability for violations, as their small factories are easy to move and reopen under new identities. Factory owners, forced by many buyers to compete with manufacturers in countries where wages are a fraction of LA's legal minimum (in 2018, $12.00 per hour), almost unavoidably will violate the law to maintain a margin of profitability.

These same factors, along with weak penalties on employers for antiunion retaliation, make union organizing and collective bargaining by workers in the sector a near impossibility. This situation underscores the need for university licensees sourcing apparel from suppliers in southern California to conduct enhanced due diligence to ensure factories' compliance with the

[5] Natalie Kitroeff and Victoria Kim, "Behind a $13 shirt, a $6-an-hour worker," *Los Angeles Times*, August 31, 2017, https://www.latimes.com/projects/la-fi-forever-21-factory-workers/.

law. The WRC's findings and recommendations and the remediation plan agreed to by Hype & Vice are detailed below in the remainder of this report.

II. Methodology

In this case, the WRC initiated an investigation after state labor inspectors had already reached their own findings of violations of applicable wage-and-hour laws, which are, by extension, violations of university codes of conduct.[6] For this reason, the WRC was able to reach the findings in this report based on the following sources of evidence:

- Local media coverage of inspection and citation of Pure Cotton and its subcontract factories;[7]
- Documents, photographs, and other information from the State of California Department of Industrial Relations' Division of Labor Standards Enforcement (DLSE); and
- Documents provided by Hype & Vice.

III. Findings

A. Wage and Hours Violations Committed by Pure Cotton's Subcontractors

As noted above, in September 2018, state labor inspectors from the DLSE cited Pure Cotton—a company located at 1365 South Broadway, Los Angeles, which the licensee, Hype & Vice, had disclosed as its sole supplier of collegiate apparel—as well as several other business entities operating at the same physical address, including the factories, Union Supply and Francisco Tecum, for violations of various California state labor laws, among them minimum wage standards.[8] In particular, as mentioned, Union Supply was cited for $58,000 in penalties that are due to its workers for the company's failure to provide them with pay statements.[9]

As also discussed, DLSE inspectors informed the WRC that they believed that some of these factories, including Union Supply, had committed much more significant additional wage-and-hour violations but reported that they were unable to gain the cooperation from factory managers and workers (likely due to fear of employer retaliation or factory closure) that would be needed to complete a full wage audit. The $58,000 in penalties due to workers were not paid by Union

[6] IMG College Licensing, "Special Agreement regarding Labor Codes of Conduct," Sched. I (Labor Standards), §§ I (Introduction) ("The term "Licensee" shall for purposes of the Code, and unless otherwise specified in the Code, encompass all of Licensees' contractors, subcontractors or manufacturers which produce, assemble or package finished Licensed Articles for the consumer.") and II.A (Legal Compliance) ("Licensees must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the production or sale of Licensed Articles.").
[7] Deborah Belgum, "Downtown LA Garment Factories Cited for Labor-Law Violations," *California Apparel News*, September 6, 2018, https://www.apparelnews.net/news/2018/sep/06/downtown-la-garment-factories-cited-labor-law-viol/.
[8] Belgum, "Downtown LA Garment Factories Cited for Labor-Law Violations;" DLSE, "Wage Citation."
[9] DLSE, "Wage Citation," citing Union Supply for $58,000 due to employees.

Supply, and the DLSE reported to the WRC that there was no realistic prospect of their agency obtaining payment in the foreseeable future.

B. Licensed Collegiate Apparel Produced by Pure Cotton Subcontractors That Were Cited for Wage-and-Hours Violations

When contacted by the WRC concerning these violations, the licensee, Hype & Vice reported that Pure Cotton had told Hype & Vice's that the latter's collegiate apparel was not produced by the factories sharing the same physical address with Pure Cotton—Union Supply, Francisco Tecum, and others—which had been cited by the DLSE for legal violations, but had been manufactured at other locations.[10] Hype & Vice produced for the WRC an email that Pure Cotton had sent to Hype & Vice stating this denial, along with information that Pure Cotton had provided to the licensee concerning factories located at other addresses that Pure Cotton claimed had produced Hype & Vice's goods.[11]

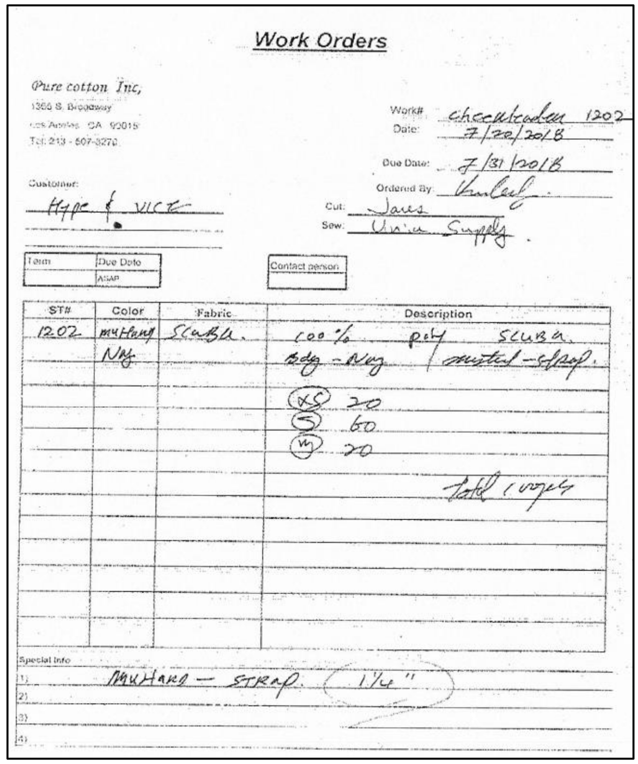
Figure 1: Hype & Vice apparel photographed in cited factories by state labor inspectors.

However, evidence that the DLSE provided to the WRC proved convincingly that, contrary to Pure Cotton's denials, Hype & Vice's collegiate products were, in fact, produced by two of the factories that DLSE cited, Union Supply and Francisco Tecum, in the same building where Pure Cotton was located, and had been placed for production there by Pure Cotton.

First, the DLSE informed the WRC that its inspectors had witnessed and, in some cases, photographed Hype & Vice apparel (cheerleader-style skirts) being produced in the factories of the contractors DLSE had cited, Union Supply and Francisco Tecum. The WRC observed that apparel photographed by the DLSE in these factories[12] (see Figure 1) matched collegiate apparel advertised on Hype & Vice's website.[13]

[10] Hype & Vice, "Letter to Partners," October 25, 2018, letter on file with WRC.
[11] Pure Cotton email to Hype & Vice, September 14, 2018; IRS Forms W-9 supplied by Pure Cotton to Hype & Vice, all on file with WRC.
[12] DLSE photograph, on file with WRC.
[13] Hype & Vice, "Mizzou Cheerleader Skirt," https://www.hypeandvice.com/hypeandvice-shop/mizzou-cheerleader-skirt?rq=Mizzou.

Moreover, the DLSE provided the WRC with copies of work order documents created by Pure Cotton indicating that Hype & Vice had ordered apparel from Pure Cotton in June and July 2018 that Pure Cotton had, in turn, placed with Union Supply to be sewn[14] (see Figure 2). Finally, DLSE staff informed the WRC that contractors in the building housing Pure Cotton had specifically informed the DLSE inspectors that Pure Cotton had placed the production of Hype & Vice's apparel with these contractors' factories.


Work Orders

Pure cotton Inc,
1355 S. Broadway
Los Angeles CA 90015
Tel: 213 - 507-3270

Work#: checkleader 1202
Date: 7/20/2018
Due Date: 7/31/2018
Ordered By:
Customer: Hype & VICE
Cut: Jaus
Sew: Union Supply

Term	Due Date
	ASAP

Contact person

ST#	Color	Fabric	Description
1202	mu Hang	SCUBA.	100% poly SCUBA.
	Nay		Bdg - Nay / [illegible] - strap.
			(XS) 20
			(S) 60
			(M) 20
			Total [illegible]

Special Info
1) MUHANG — STRAP. (1¼")
2)
3)
4)

Figure 2: Pure Cotton work order (placing order from Hype & Vice to be sewn by Union Supply).

Based on this detailed and mutually corroborative evidence, the WRC concluded that Pure Cotton had been untruthful when it denied that Hype & Vice's apparel had been produced in any of the factories that had been cited by the DLSE, and that, in the case of two of these factories, Union Supply and Francisco Tecum, the evidence supported the contrary conclusion: that these factories *had* produced licensed collegiate apparel supplied to Hype & Vice.

C. Licensee's Responsibility for Remediation of Labor Violations

University licensing agreements and codes of conduct require that licensees ensure compliance in the production of collegiate apparel with all labor laws of the country of manufacture (in this case the wage-and-hours standards of the US, California, and Los Angeles), including by all suppliers and subcontractors.[15] Therefore, when contractors or subcontractors violate wage-and-hours laws, it is the responsibility of the licensee, itself to:

- Ensure corrective action by the contractor and/or subcontractor; or
- Remediate the violations, itself, by payment to the affected workers.

[14] Pure Cotton, Work Orders, June-July 2018, on file with WRC.
[15] IMG College Licensing, "Special Agreement regarding Labor Codes of Conduct," Sched. I (Labor Standards), §§ I (Introduction) ("The term "Licensee" shall for purposes of the Code, and unless otherwise specified in the Code, encompass all of Licensees' contractors, subcontractors or manufacturers which produce, assemble or package finished Licensed Articles for the consumer.") and II.A (Legal Compliance) ("Licensees must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the production or sale of Licensed Articles.").

In this case, Hype & Vice's supplier for collegiate apparel, Pure Cotton, contracted with two factories, Union Supply and Francisco Tecum, that violated California wage-and-hours laws and, as a result, were assessed by the DLSE with fines that, if paid by the employer, would be used by the DLSE to compensate the factories' workers.[16]

In the case of the factory, Francisco Tecum, however, the DLSE informed the WRC that this was an exceedingly small factory, where every one of its handful of workers were immediate family members of the employer. The WRC determined, therefore, that recommending that Hype & Vice pay these workers the fines assessed against the factory would have, in effect, required the licensee to reward this employer for violating the wage-and-hour laws, a result contrary to the intent of university codes.

With respect to the factory, Union Supply, however, the DLSE advised the WRC that this factory had roughly 15 employees, all or nearly all of whom were *not* family members of its owners. Accordingly, the WRC concluded that under university codes of conduct and licensing agreements, Hype & Vice was responsible for ensuring that the fines assessed against this factory, which totaled $58,000, were paid to its workers.

IV. Recommendations for Corrective Action, Licensee Response and Current Status

The WRC recommended that, to fulfill Hype & Vice's obligations under university codes of conduct, the licensee should ensure payment of $58,000 to Union Supply's workers. As neither Union Supply nor Pure Cotton, the company which had placed Hype & Vice's orders with Union Supply were cooperative in this regard, the WRC recommended that Hype & Vice, itself, assume responsibility to pay the workers, as required under university codes.

Following conversations with the WRC, Hype & Vice agreed to provide funds itself to Union Supply's workers. However, Hype & Vice informed the WRC that, as a small and recently established licensee with limited financial resources, it was not able to pay the full amount of the fines levied against Union Supply by the DLSE—$58,000. At the WRC's request, Hype & Vice provided the WRC, on a confidential basis, with copies of its financial statements and tax returns to corroborate the licensee's assertions concerning its limited financial capacity.

Having reviewed these records, the WRC determined that Hype & Vice's assertions concerning its inability to pay the full amount of the fines assessed against Union Supply were highly credible and agreed with the licensee on a remediation plan under which Hype & Vice would pay workers 50% of this amount over a 24-month period. Under this remediation plan, Hype & Vice agreed to make three payments to workers of $9,667 on December 15 of 2019, 2020, and 2021.

Hype & Vice agreed to contribute these funds to a nonprofit organization designated by the WRC that will distribute this money to eligible Pure Cotton workers. The WRC is working with the L.A.-based nonprofit, the Garment Worker Center, to obtain contact information for employees of Pure Cotton's subcontractor, Union Supply, who are eligible to receive payments

[16] DLSE, "Wage Citation."

under this corrective action plan. Under the corrective action plan, eligible workers are those persons currently or formerly employed (during 2018) by Union Supply who are not among Pure Cotton or Union Supply's owners, managers, or the owners' immediate family members.

The WRC expects that identification of eligible Union Supply workers is likely to be highly challenging. Los Angeles's garment industry is marked by high turnover rates and irregular employment status among workers, as well as frequent closures and relocations by factories. Therefore, with respect to any funds contributed by Hype & Vice that cannot be distributed to eligible workers, 50% of the total will be donated to a nonprofit organization working to benefit garment workers in Los Angeles, and 50% will be returned to Hype & Vice.

These funds represent a meaningful commitment by Hype & Vice, given its current limited resources, to remedy the violations of university codes committed by its supplier, Pure Cotton, and Pure Cotton's subcontractor, Union Supply. Considering the circumstances, the WRC believes that this outcome represents the most feasible remedy for workers and reasonably fulfills Hype & Vice's obligations under university codes of conduct. This case provides a reminder for all university licensees, no matter what size or in what country they choose to produce their goods, of the need for due diligence and close monitoring of their supply chains with respect to compliance with applicable labor laws and university codes of conduct.