

To: WRC Affiliate Colleges and Universities
From: Scott Nova, Jessica Champagne, and Tara Mathur
Re: Resolution of Complaint at Impression Apparel (El Salvador)
Date: December 13, 2016

This memorandum summarizes the successful resolution of a complaint presented to the Worker Rights Consortium (WRC) alleging a violation of freedom of association at Impression Apparel Group (Impression Apparel), a factory located in Soyapango, El Salvador. Impression Apparel, until recently, produced collegiate licensed apparel for Tailgate Clothing Company (Tailgate), which is owned by American Eagle. It has also produced non-collegiate apparel for Gap Inc. (Gap), Hybrid, Target, and Walmart.

In June 2016, the Salvadoran garment union known as the Sindicato Salvadoreño de Industrias Textiles (SSINT) contacted the WRC on behalf of the worker Ana Beatriz Grande Arteaga. Grande Arteaga alleged that Impression Apparel had illegally terminated her employment in retaliation for her union activity. The WRC investigated this claim and engaged with factory management and with factory buyers, recommending that the parties reinstate the worker to her original position, with no loss of seniority and full payment of all lost wages. Throughout the process, Impression Apparel claimed that the worker had not been fired, but rather that she had voluntarily resigned from her position. However, while the WRC investigation was in progress and after buyers contacted the factory at the WRC's urging, Impression Apparel agreed to reinstate Grande Arteaga to her former position and to pay her all wages due for the time that she was off the job.

Allegations and Investigation

Grande Arteaga provided detailed testimony to the WRC regarding her termination. She stated that, on May 27, 2016, she was called to the factory human resources department, where she was told that she was being dismissed because her module (work team) was being dissolved. The worker informed the WRC that she was not provided with a copy of any dismissal letter, as required by law,¹ and that she was paid all wages due to her but did not receive any severance pay, which is required by Salvadoran law in the case of a no-fault dismissal.²

Termination of Grande Arteaga on this date would constitute a violation of Salvadoran law, and by extension university codes of conduct, regardless of the motivation for the termination. Less than two weeks prior to the termination, on May 14, 2016, Grande Arteaga's coworkers elected her as a leader of the SSINT union, according to official documents provided to the WRC.

¹ Salvadoran Labor Code, Article 54.

² Id., Article 58.

Salvadoran law prohibits employers from dismissing elected union leaders without prior authorization from the labor authorities.³

The WRC contacted Impression Apparel on June 10, outlining the allegations and requesting the company's cooperation in the WRC's investigation. Factory management, in turn, alleged that Grande Arteaga had not been fired but, rather, had resigned from her employment. Impression Apparel provided the WRC with a letter of resignation dated May 27, which bore a signature purporting to be that of Grande Arteaga.

Upon receiving this information from the company, the WRC conducted follow-up interviews with Grande Arteaga. She gave credible testimony to the WRC that she had never seen the letter of resignation before. In subsequent interviews, she was firm in maintaining her original statement that she did not voluntarily resign, but rather was dismissed from Impression Apparel. The worker stated that she did not sign the resignation letter that the company presented to the WRC and that she had never met the notary who had, allegedly, notarized her signature on the letter.

The WRC also reviewed a June 16, 2016, report prepared by the Salvadoran Ministry of Labor resulting from its investigation of the matter. The inspector who reported his findings reported that no violation had occurred. However, the WRC found reason to question the Ministry's findings given that the inspector took the alleged letter of resignation at face value and did not make any effort to verify its validity or interview the worker; in fact, Grande Arteaga traveled to the factory that day in order to provide testimony, but was turned away by the factory and not allowed in to speak with the Ministry inspector. Worth noting is that El Salvador's Ministry of Labor has been frequently cited for its failure to enforce labor laws and uphold its obligation to protect workers' rights.⁴

This was not the first case in which the WRC had found violations of workers' right to freedom of association at Impression Apparel. In April 2015, the WRC reported on the case of three workers who were leaders of a different union, the Sindicato de la Industria Textil Salvadoreña (SITS), who were fired in violation of Salvadoran law.⁵ As in the case of Grande Arteaga, Impression Apparel initially refused to reinstate the workers but, after the intervention of the WRC and the university licensee, Tailgate, the company did offer reinstatement to all three workers with payment of back wages. In addition, later that year, the company refused to cooperate with an investigation launched by the Fair Labor Association (FLA) in response to worker allegations of additional violations of associational rights and other workplace rights.⁶

³ Article 248 of the Salvadoran Labor Code prohibits the employer from unilaterally dismissing any member of a union leadership committee during the term of his or her service and for one additional year after service.

⁴ See, for example, U.S. Department of State, "Country Reports on Human Rights Practices for 2015: El Salvador," which states "The government did not effectively enforce the laws on freedom of association and the right to collective bargaining in all cases." Available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

⁵ Worker Rights Consortium, "WRC Memo Re Impression Apparel (El Salvador)," April 17, 2015, <http://workersrights.org/Freports/Impression%20Apparel.asp>.

⁶ See, Fair Labor Association, "Impression Apparel in El Salvador," November 5, 2015, <http://www.fairlabor.org/report/impression-apparel-el-salvador>.

Based on the strong testimony provided by the worker, together with the history of similar violations at Impression Apparel, the WRC continued the investigation and prepared to conduct additional steps to verify the validity of the letter of resignation and particularly the worker's signature.

Engagement with Licensee and Additional Buyer

After receiving the initial complaint, the WRC first contacted Tailgate, which disclosed the factory for the production of collegiate licensed apparel. Tailgate, which had been instrumental in pressing the factory to address the 2015 dismissals, reported that it had ended its business relationship with Impression Apparel in late 2015 following the factory's refusal to participate in the FLA audit mentioned above. While the absence of a continuing business relationship limited Tailgate's leverage in this case, Tailgate did commit to contact Impression Apparel management regarding the case.

The WRC then contacted another of the factory's primary buyers, Gap. In response, Gap visited the factory and engaged in repeated communications with the factory and the WRC regarding the case.

Remediation

During the period in which Gap was communicating with Impression Apparel, Grande Arteaga and her union reported that Impression Apparel had contacted them in order to negotiate a resolution. On September 21, 2016, Impression Apparel reached an agreement with the worker under which the factory agreed to rehire the worker to her former position and to provide her with back pay from the time of her dismissal to the time of her return to work. The company also committed to fully respect Grande Arteaga's legal rights and, specifically, pledged that she would not be subjected to discrimination in retaliation for her union activity. The WRC has confirmed that Grande Arteaga returned to work and received the promised back pay.

This resolution, which is a clear result of the communication by the WRC and Gap to Impression Apparel, constitutes a satisfactory remedy to this case. As the company has now remedied the alleged damage to Grande Arteaga by returning her to work with back pay, the WRC has suspended the investigation into whether the documents presented by the factory were authentic and whether Grande Arteaga was terminated in retaliation for her union activity.