

WORKER RIGHTS CONSORTIUM FACTORY ASSESSMENT

Palm Apparel (Haiti)

Findings, Recommendations, and Company Response



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WORKER RIGHTS
CONSORTIUM

1990 K Street, NW, Suite 410
Washington, DC 20006
(202) 387-4884 | www.workersrights.org

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I. Introduction and Executive Summary

This report details the findings of an investigation by the Worker Rights Consortium (WRC) of the blacklisting of workers, in violation of their right to freedom of association, by the management of Palm Apparel, a garment manufacturer located in Port-au-Prince, Haiti, as well as the WRC's work to remedy these violations. Palm Apparel had been disclosed for the production of university licensed apparel by the university licensees, MV Sport and New Agenda. Both of these university licensees purchase blank goods manufactured at the factory from the Canadian apparel brand, Gildan Activewear.

The WRC initiated its investigation of freedom of association violations at the factory in response to a complaint filed by workers who were leaders of the independent union, SOTA-BO (Haitian Kreyòl acronym for “Union of Textile and Apparel Workers – Workers’ Struggle”), and had been employed by one of Palm Apparel’s factories, known as Diquini. Palm Apparel closed the Diquini factory in June 2021.

The workers charged that, when Palm Apparel closed the Diquini facility, the company blacklisted them, on account of their roles as union leaders, by excluding them from the group of former workers from the Diquini plant whom the company allowed to transfer to another of its factories, a facility known as Thor.

The WRC’s investigation confirmed that Palm Apparel did, in fact, blacklist 19 employee union leaders by excluding them from the group of workers whom the company permitted to transfer to its Thor facility following the closure of the Diquini plant. These actions by Palm Apparel represented violations of Haitian labor law, international labor standards, and university codes of conduct with regard to workers’ right to freedom of association.¹ They also violated Gildan’s own supplier code of conduct.²

When Palm Apparel expressed unwillingness to remedy the violations, the WRC engaged with Gildan and the university licensees, New Agenda and MV Sport, to seek their cooperation in achieving corrective action. New Agenda informed the WRC that it would remind Gildan that compliance with university codes of conduct is a condition of Gildan supplying New Agenda with apparel made by Palm Apparel. MV Sport informed the WRC that, while it continued to do business with Gildan, it had not received any apparel from Gildan made at Palm Apparel since 2020.

Ultimately, engagement with Gildan and with these two licensees resulted in Palm Apparel negotiating a remediation agreement to correct the violations of university codes of conduct that had occurred. On June 1, 2023, Palm Apparel signed an agreement with representatives of the SOTA-

¹ Haitian Constitution, Section E; Haitian Labor Code, Articles 225-228; International Labour Organization Conventions 87 (Freedom of Association and Protection of the Right to Organise) and 98 (Right to Organise and Collective Bargaining); and e.g., Collegiate Licensing Company (CLC), Special Agreement Regarding Labor Codes of Conduct Sched. I, §§ II (A) (“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.”) and (B)(9) (“Licensees shall recognize and respect the right of employees to freedom of association....”).

² Gildan Activewear, “Code of Conduct,” https://gildancorp.com/media/uploads/global/plugin/bb2022_code_of_conduct_poster.pdf, “Gildan and its business partners will recognize and respect the right of employees to Freedom of Association and Collective Bargaining.”

BO union and with the WRC in which the factory committed to providing one year's back wages to the 19 union leaders who had not been given the opportunity to transfer to Palm Apparel's Thor facility.

The factory also committed to making offers of reinstatement to all 19 worker union leaders to positions at the factory as soon as they became available and, in any case, within the next four months. Palm Apparel pledged that it would not hire any other employees until all 19 worker union leaders had been given the opportunity to return to work at the factory and agreed that all of these workers would be offered rehiring no later than October 15, 2023.

The promised back pay was distributed by Palm Apparel to the worker union leaders on July 7. The WRC will continue to monitor the factory's compliance with its commitment to rehire the workers by October 15, 2023, at the latest.

II. Methodology

The findings in this report are based on the following sources of evidence:

- Interviews with former employees of Palm Apparel;
- A review of a communication from the Sendika Ouvriye Takstil ak Abiman/Batay Ouvriye (“SOTA-BO”) union to Palm Apparel dated January 30, 2021;
- Communications with management at Palm Apparel, its buyer, Gildan Activewear, and the university licensees, MV Sport and New Agenda; and
- A review and analysis of applicable international labor standards, Haitian laws, and university and buyer codes of conduct.

III. Finding of Violations of Associational Rights: Blacklisting of Worker Union Leaders

On June 25, 2021, management at Palm Apparel communicated to its employees that it was suspending operations at the company's two factories in Haiti—Diquini and Thor—for a period of 30 days. The company informed the WRC that its operations had been negatively impacted by the continuing economic and political crisis in Haiti and, specifically, ongoing violence in the area where the Diquini plant was located.

After the 30-day suspension period ended, however, Palm Apparel announced that it would permanently close the Diquini facility rather than resume operations there. Palm Apparel reported to the WRC that the company's announcement that it would permanently close the factory was met by protests from workers, including worker union leaders, who were upset about the loss of their jobs.

Workers from the Diquini factory reported to the WRC that Palm Apparel had allowed some, but not all, of the closed factory's employees the opportunity to transfer to its Thor factory, where the company was resuming operations. Gildan reported to the WRC that Palm Apparel allowed approximately 30 percent of the Diquini factory's workforce (180 out of a total of 599 workers) to transfer to the Thor facility.

According to Gildan, Palm Apparel indicated that it selected which workers from the Diquini factory would be allowed to transfer to the Thor facility based on employees' efficiency, seniority, and discipline in the workplace. The SOTA-BO union, which represented workers at Palm Apparel, reported to the WRC that 19 workers who were union leaders at the Diquini factory were denied the opportunity to continue their employment at Palm Apparel's Thor facility.

The SOTA-BO union provided the WRC a document that the union had delivered to the management of Palm Apparel on January 30, 2021, and filed with the Haitian Ministry of Labor, listing by name 22 employees who made up the union's leadership at the Diquini factory. This established that Palm Apparel knew which of its employees at the Diquini facility were union leaders.

According to the union, 19 employees from the Diquini plant, whom SOTA-BO had identified to the company as union leaders, requested transfer to the Thor facility, but were told by the management that they would not be offered employment there. Several of these employees provided direct testimony indicating that the company's refusal to allow them to transfer to the Thor factory was related to their union activities.

One of the Diquini worker leaders who was not offered the opportunity to transfer to the Thor factory testified to the WRC that he had been employed at Palm Apparel for a total of 10 years prior to the closure of the Diquini plant, but, when he requested to transfer to the Thor facility, factory managers rejected his request, telling him that Palm Apparel was not transferring "people who create trouble". This worker told the WRC that he understood the factory managers' statement about "people who create trouble" to refer to employees who were leaders in the SOTA-BO union. Palm Apparel denied any knowledge of this employee's request to be transferred, but, given the specificity of the worker's testimony, the WRC did not find the company's response to be credible.

A second worker union leader who was denied the opportunity to transfer to the Thor facility following the closure of the Diquini plant testified to the WRC that he asked a coworker to recommend him to the management for transfer to the Thor facility. The coworker reportedly told the union leader that the Palm Apparel manager with whom the coworker had spoken asked whether the worker seeking to be transferred was a union leader.

A third worker union leader who was interviewed by the WRC stated that she had been working at Palm Apparel for approximately three years at the time that the Diquini factory closed. This worker testified that, when she approached the factory management to express interest in transferring to the Thor facility, a Palm Apparel manager named Schilert responded by asking her whether she had been a union activist. The worker responded to Schilert that she was a union leader, to which the manager, Schilert, allegedly responded that, given the worker's role as a union leader, she was not eligible for employment at the Thor facility. This worker testified that four other workers, who were formerly employed at the Diquini factory and were *not* leaders of the SOTA-BO union, also applied for transfer to the Thor factory on the same day that she did and that all four were hired by the company.

Palm Apparel's response to this worker's testimony was to state that the manager, Schilert, does not work in the company's human resources department but, rather, is the factory's operations manager. Accordingly, the company claimed, this manager would have already known which workers were members of the union and would not have asked such a question. However—since the manager could very likely have asked the question rhetorically and since the relevant portion of the statement attributed to the manager was the remark that, as a union leader, the employee was not eligible for transfer—the company's response did not rebut the evidence of retaliatory animus.

When the WRC provided its initial findings to Palm Apparel regarding the alleged blacklisting of the employee union leaders, Palm Apparel claimed that *all* employees from the Diquini factory were given the opportunity to transfer their employment to the Thor facility at the time of the factory's closure. However, this claim was contradicted by Gildan, which, as noted above, reported that only approximately 30 percent of the Diquini workers were given the opportunity to transfer to the Thor factory. The factory's claim that all employees were given the opportunity to transfer was further contradicted by the worker testimony outlined in this report.

In summary, Palm Apparel worker union leaders from the Diquini factory, whose positions and participation in the union were known to factory management, were expressly told by factory management that they were being refused transfer to the Thor factory because of their involvement with union activities and that the company, generally, considered worker union leaders from the Diquini factory to be ineligible for transfer. Furthermore, the factory failed to provide any credible evidence that these workers were either actually offered such transfers or, alternatively, denied transfer on nondiscriminatory grounds.

The Haitian Constitution (Section E), Haitian Labor Code (Article 225), and International Labour Organization (ILO) Conventions 98 (Right to Organise and Collective Bargaining) (which has been ratified by Haiti) protect associational rights and prohibit discrimination against workers for union

activity.³ Furthermore, both university codes of conduct⁴ and Gildan’s own code of conduct for suppliers⁵ also prohibit discrimination against workers on account of their exercise of associational rights. Finally, ILO Recommendation 143 on Workers’ Representatives states that worker representatives should be protected from any prejudicial act, including dismissal, based on their status or activities.⁶

The WRC found that Palm Apparel violated Haitian law, international labor standards, and brand and university codes of conduct by blacklisting worker union leaders from transferring employment to the company’s Thor facility following the closure of its Diquini plant.

³ Constitution of Haiti, 1987, Section E (“Freedom of Assembly and Association... Freedom of unarmed assembly and association for political, economic, social, cultural or any other peaceful purposes is guaranteed.”); Haitian Labor Code, Article 225 (“The right of workers to associate for the defense of their legitimate interests is protected and guaranteed....”); and ILO Convention 98, Article 1 (“Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.... Such protection shall apply more particularly in respect of acts calculated to-- ... cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities....”).

⁴ E.g., Collegiate Licensing Company (CLC), Special Agreement Regarding Labor Codes of Conduct Sched. I, §§ II (A) (“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.”) and (B)(9) (“Licensees shall recognize and respect the right of employees to freedom of association....”).

⁵ Gildan Activewear, “Code of Conduct,” “Gildan and its business partners will recognize and respect the right of employees to Freedom of Association and Collective Bargaining.”

⁶ International Labour Organization, R143 - Workers’ Representatives Recommendation, 1971 (No. 143), https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:R143:NO.

IV. Recommendations for Corrective Action

As noted above, Palm Apparel reported to the WRC that *all* employees from the Diquini factory were given the opportunity to transfer their employment to the Thor facility at the time of the factory's closure, but it did not provide evidence that the 19 union leaders who were employed at Palm Apparel's Diquini facility at the time of its closure were included in being provided this opportunity.

The WRC therefore recommended that, in order to comply with university and buyer codes of conduct, Palm Apparel offer the 19 employee leaders of the SOTA-BO union with comparable positions at the Thor facility, along with payment of back wages.

V. Remediation and Current Status

In June 2023, following extensive engagement by the WRC with Gildan and the university licensee, New Agenda, and with Palm Apparel by Gildan, Palm Apparel agreed to pay the dismissed workers back wages for a period of one year. Although the workers had been out of work for a significantly longer period than this, due to the ongoing political crisis in Haiti, the factory had been closed for many months during this time. Therefore, the WRC determined that one year's salary would provide an appropriate amount of back wages.

Furthermore, through the agreement, Palm Apparel agreed that it would hire no other workers until all 19 former employees were given the opportunity to return to work at the factory. Palm Apparel committed to providing offers of reinstatement to all 19 workers no later than October 15, 2023.

The back wage payments to the worker union leaders were made by Palm Apparel on July 7, 2023. The WRC will continue to monitor compliance with the terms of this agreement and with respect for freedom of association standards at Palm Apparel.



Palm Apparel worker leaders who are receiving back wages and rehiring rights through university code of conduct enforcement