

WORKER RIGHTS CONSORTIUM FACTORY ASSESSMENT

Body Fashion (Thailand)

Findings, Recommendations, and Company Response



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Table of Contents

I.	Introduction and Executive Summary.....	3
II.	Methodology.....	6
III.	Findings, Recommendations, and Company Response	7
IV.	Conclusion	17

I. Introduction and Executive Summary

This report details findings pursuant to an investigation by the Worker Rights Consortium (WRC) of violations of workers' rights and Thai law by Body Fashion (Thailand) Ltd., a clothing manufacturer owned by the Malaysian businessman Robert Ng¹ (also known as Ng Man Choong). Body Fashion's sewing factory was located in the Nong Krot subdistrict of the Mueang Nakhon Sawan district of Nakhon Sawan province; it also had a small sample-making facility in the Bang Pla subdistrict of the Bang Phli district of Samut Prakan province. Body Fashion supplied underwear to another company owned by Robert Ng, Huber Holding (owner of the brands Hanro, HOM, Huber Bodywear, Huber Tricot, and Skiny), as well as Lane Bryant, Triumph International, and Victoria's Secret.²

On July 31, 2020, after failing for months to meet its legal obligations to pay workers a portion of their wages during Covid-19 pandemic-related suspensions, Body Fashion terminated 800 of its more than 900 workers in Nong Krot, without prior notice.³ In the following months, as Body Fashion finished fully winding down its operations, the company dismissed its remaining workers in Nong Krot and its small workforce in Bang Pla.⁴

In all instances the company failed to provide workers with their legally owed severance. Combined with wage violations that Body Fashion committed prior to its closure, this mass theft of severance has deprived the factory's workforce of millions of dollars in legally mandated compensation. As of the publication of this report, the total owed to workers by Body Fashion's owner, Robert Ng, is \$5.9 million, which includes legally required interest.

¹ Not to be confused with Singaporean billionaire, Robert Ng (Ng Chee Siong), Chairperson of Sino Group.

² Triumph International, the original owner of Body Fashion, sold the factory to Robert Ng in 2016. Frequent shipments until October 2019 to Triumph International Vietnam, Triumph International India, and Triumph International Philippines show that Triumph continued to do business with the factory as a buyer after selling it to Ng. Workers report producing for HOM since 1996, first when HOM was owned by Triumph but also for at least two years after Triumph sold the brand to Huber Holding in 2015. Additionally, workers report producing other Huber-branded products from mid-2018 through 2019.

Victoria's Secret disclosed the factory in its May 2019 supplier list. The most recent shipment available in import records from Body Fashion was to Victoria's Secret, which arrived in the US on June 24, 2020. Workers report that Body Fashion had a three-year contract with Victoria's Secret, starting in mid-2017, with large-scale production particularly during the first two years, and final orders produced in early 2020.

The factory had at least five shipments to Lane Bryant from October 2019 to April 2020, according to import records. Workers report that production for Lane Bryant started earlier in 2019. Sycamore Partners acquired Lane Bryant from Ascena Retail Group in December 2020.

³ While we do not know the exact number of workers employed at the time, from court records following terminations from the factory, we know that there were at least 903 employees, not including management.

⁴ Body Fashion's small facility in Bang Pla that made patterns and samples employed 30 people who had formerly worked at Body Fashion's branch in Bang Sao Thong, a neighboring district. Many of these workers had refused to continue working at that factory after it was sold to Clover Group International Ltd. and were transferred by Body Fashion to the Bang Pla facility on September 30, 2019, maintaining their seniority. Clover Group International Ltd. changed the name of the Body Fashion factory in Bang Sao Thong district, Samut Prakan to Brilliant Alliance Thai Global. The WRC and Solidarity Center have previously reported on this factory here: Solidarity Center and Worker Rights Consortium, "Thai Workers Win Historic \$8.3 Million in Back Pay, Financed by Victoria's Secret," May 25, 2022, <https://www.workersrights.org/press-release/thai-workers-win-historic-8-3-million-in-back-pay-financed-by-victorias-secret/>.

Between November 2021 and May 2022, the Thai government issued a series of rulings in response to complaints filed by workers about the unpaid compensation. In every case, the government ruled in favor of the workers and affirmed the legal obligation of the company to pay them all owed compensation, including severance, notice pay, unpaid suspension wages, accrued vacation, and unpaid bonuses.

After Body Fashion failed to comply with these rulings, the former employees sought assistance from the Solidarity Center, a US-based international labor rights organization. The Thailand office of the Solidarity Center plays a central role in supporting workers seeking to defend and exercise their labor rights in the country. In 2021 and 2022, the Solidarity Center worked with the Triumph International Union, affiliated to the Confederation of Industrial Labour of Thailand, and with the WRC, to secure \$8.3 million in severance and other compensation for the former employees of Brilliant Alliance Thai Global. This was another garment factory⁵ that closed during the pandemic and failed to pay legally mandated terminal compensation to its workforce.⁶

In February 2023, former Body Fashion employees and the Solidarity Center asked the WRC to investigate the factory's closure and nonpayment of severance. The WRC carried out an investigation and found that Body Fashion violated the legal rights of its employees and, by extension, the codes of conduct of the factory's customer brands, when it terminated workers without paying legally owed severance and when it failed to meet its obligations to pay bonuses and suspension wages.⁷ Including accrued interest mandated by Thai law, the WRC calculates that Body Fashion owes 932 former employees a total of 209,863,589 baht (US\$5.9 million, as noted above, at the exchange rate prevailing on the date this report was published.

The factory's theft of their severance and other compensation has gravely exacerbated the hardship the Body Fashion workers have experienced in the wake of the closure. More than 90 percent of the workforce are women. Many worked at the factory for over a decade; some for more than 20 years. Some workers have now lost their homes. Many cannot afford school fees and supplies for their children. Dozens have been forced to borrow money from informal lenders, paying exorbitant interest rates. As one woman said, "we had been pillars of our families, but now we have become a burden."

The WRC has conveyed our findings to the factory's controlling owner, Robert Ng, and to buyers, identifying the action necessary to correct the violations of Thai law and brand codes of conduct: all the workers must be paid in full the money they are lawfully due, including interest.

Robert Ng, who as the owner of Body Fashion is directly responsible for the factory's debts to workers, has brazenly disregarded Body Fashion's obligations and demonstrated no intention to pay workers what they are owed. Having stolen from nearly a thousand workers \$5.9 million they legally earned working for him, Mr. Ng, an industrialist with commercial interests in countries across

⁵ The Brilliant Alliance factory was previously part of Body Fashion, when both factories were under the ownership of Triumph International.

⁶ Solidarity Center and Worker Rights Consortium, "Thai Workers Win Historic \$8.3 Million in Back Pay."

⁷ The fact that the WRC's investigation, as reported in this document, did not yield findings of violations in any particular areas of the factory's labor practices should not be construed as an affirmation of the factory's overall compliance with respect to its practices in those general areas.

Europe and Asia, apparently intends to leave them and their families destitute. The WRC and one of the factory's primary buyers have made numerous attempts to contact Mr. Ng, to no avail.

Meanwhile, Mr. Ng sells underwear to millions of consumers in Austria, Germany, the United States, and other markets as owner and CEO of Huber Holding. As noted above, Huber was a major buyer at Body Fashion. It is likely that few, if any, of the people who buy Huber's products are aware that the company's principal has committed wage theft on a massive scale and that he and Huber sit by while the Body Fashion workers and their families suffer grievous hardship. Indeed, it is unclear whether Huber's own employees are aware of Mr. Ng's and Huber's behavior in Thailand.

In addition to Huber Holding, the WRC has contacted the three other buyers from Body Fashion that we have identified via shipping records and worker interviews: Triumph International, Sycamore Partners (owner of Lane Bryant), and Victoria's Secret. Sycamore, consistent with its past behavior,⁸ has failed to reply to communications. Triumph has replied; however, in defiance of its own code of conduct, through which it pledges to protect the rights of workers in its supply chain, Triumph denies any responsibility to address the violations at Body Fashion. Victoria's Secret has responded, acknowledged the violations, and assisted in efforts to contact Mr. Ng. However, these efforts have proven fruitless, and, to date, Victoria's Secret has taken no other action to assist the workers.

As of the publication date of this report, Body Fashion has not paid any of the severance, suspension wages, and bonuses it owes to its former employees. The workers in Thailand, many of whom are owed the equivalent of more than two years' wages, continue to seek the earnings they are legally due.

⁸ Sycamore Partners was unresponsive to inquiries from both the WRC and the Private Equity Stakeholder Project (PESP) in 2021 regarding the nonpayment of severance to former employees of Brilliant Alliance Thai Global. See: Private Equity Stakeholder Project, "Private Equity Firm Sycamore Partners' Brands Must Ensure Garment Workers Receive \$7.8 Million in Unpaid Compensation," January 10, 2022, <https://pestakeholder.org/news/private-equity-firm-sycamore-partners-brands-must-ensure-garment-workers-receive-7-8-million-in-unpaid-compensation/>; Solidarity Center and Worker Rights Consortium, "Thai Workers Win Historic \$8.3 Million in Back Pay"; and Private Equity Stakeholder Project, "Thai Workers Win Historic \$8.3 Million in Back Pay Despite Private Equity Firm Sycamore Partners' Failure to Pay," June 1, 2022, <https://pestakeholder.org/news/thai-workers-win-historic-8-3-million-in-back-pay-despite-private-equity-firm-sycamore-partners-failure-to-pay-2/>. Several months later, in response to the WRC's request that Sycamore engage with the JNB Global factory in Guatemala to ensure the remediation of worker rights violations, the WRC did receive a reply from Sycamore's portfolio brand Torrid but none from Sycamore itself. After Target's engagement with JNB Global played an important role in securing full remediation of the violations, Torrid informed the WRC that it had not yet completed its investigation into the case, even though more than four months had passed since the WRC brought information detailing the violations to Sycamore. See: Worker Rights Consortium, "WRC Engagement with Target Secures Compensation for Seven Unlawfully Fired Employees, Restores Stolen Severance Rights for 400 Workers at Supplier JNB Global in Guatemala," March 2, 2023, <https://www.workersrights.org/commentary/wrc-engagement-with-target-secures-compensation-for-seven-unlawfully-fired-employees-restores-stolen-severance-rights-for-400-workers-at-supplier-jnb-global-in-guatemala/>. Sycamore remained unresponsive to PESP; see: Private Equity Stakeholder Project, "Sycamore Partners fails to respond to Guatemala labor dispute," April 3, 2023, <https://pestakeholder.org/news/sycamore-partners-fails-to-respond-to-guatemala-labor-dispute/>.

II. Methodology

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

- Interviews with former Body Fashion employees;
- Examination of factory records provided to the WRC by employees (directly and through the Thailand office of the Solidarity Center);
- A review of relevant court rulings and related court documents in Thailand;
- Evaluation of corporate records of Body Fashion, Huber Holding, and additional corporate entities owned by, and/or associated with, Robert Ng;
- Analysis of shipping records pertaining to the relationship between Body Fashion and its customer brands; and
- A review and analysis of applicable Thai law and buyer codes of conduct.

III. Findings, Recommendations, and Company Response

A. Finding: Violation of Workers' Legal Right to Partial Wages during Suspension

Prior to closing the Nong Krot and Bang Pla facilities, Body Fashion suspended some, and later all, of the facilities' workforce for substantial periods of time. Under Article 75 of the Thai labor law, employers must pay suspended workers 75 percent of their basic wages.⁹ Body Fashion did not pay its suspended workers anything, thereby violating the law and its customers' codes of conduct.

For much of March and April 2020,¹⁰ Body Fashion operated with only a small portion of its usual workforce at Nong Krot, suspending the remainder as a precautionary health measure due to the spread of Covid-19. On May 2, 2020, Body Fashion expanded the suspensions to include the entire Nong Krot workforce; they remained on suspension until the factory terminated the employment of most of its workforce on July 31. Throughout this entire five-month period, Body Fashion failed to pay to its suspended workers at Nong Krot their legally mandated wages. The Thai government stepped in and paid the employees 62 percent of their wages between May 2 and July 30, with funds drawn from the Social Security department's unemployment fund.¹¹

Workers at the Bang Pla factory were also suspended during the height of the Covid-19 pandemic and were not paid the suspension wages they were due under the law for August and September 2020. These workers were terminated later than the Nong Krot workers; most were fired in October 2020 and the remainder in April 2021.

According to the Thai Department of Labor Protection and Welfare (DLPW), the total amount of unpaid wages owed to 712 Body Fashion workers from Nong Krot is 8,783,341.25 baht (US\$248,668).¹² The unpaid wages due to 27 workers from the Bang Pla facility are included within the court order on their terminal compensation, described below; additionally, three employees are owed 763,872 baht.

B. Finding: Failure to Pay Legally Mandated Severance to Terminated Workers

On July 31, 2020, Body Fashion's employees arrived at the Nong Krot factory for work, having been told by the company that the factory would reopen on this date. They were greeted instead by an announcement posted outside the factory telling 800 of the workers that they were terminated,

⁹ Thailand Labor Protection Act, § 75, states: "When it is necessary for an Employer for whatever cause other than a force majeure which affects his/her business and causes the Employer incapable to operate his or her business as normal so as to temporarily suspend the business in whole or in part, the Employer shall pay wages to an employee in amount of not less than seventy-five per cent of wages of working days received by the employee before the suspension of business for the entire period which the Employer does not require the employee to work."

¹⁰ The specific date ranges of the temporary suspensions that affected a majority of the workers at the factory were March 2 to 7, March 10 to 14, March 16 to 21, March 23 to 28, April 6 to 11, April 16 to 18, and April 20 to 25.

¹¹ Thailand Social Security Fund, "Assistance for employers, employees and self-insured re Covid-19," accessed on October 3, 2023, <https://www.sso.go.th/wpr/main>, and Ministerial Regulation, April 17, 2020, https://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/029/T_0008.PDF.

¹² The Employee Welfare Fund later paid workers 8,659,372.68 baht of this amount; however, due to prior instances of the Fund requiring workers to return funds received from it (see footnote 19), the WRC asserts that the employer should meet its obligations to pay its former workers the full amount owed, per the DLPW.

effective immediately.¹³ Management cited a decline in orders as the reason for the terminations. No mention was made in the printed announcement of severance pay or notice pay. Most of the affected workers, unable to contact factory management, proceeded, on that same afternoon, to seek help from the provincial office of the DLPW in Nakhon Sawan.¹⁴ In the ensuing weeks, Body Fashion’s owner terminated the remaining employees and permanently closed the facility.¹⁵

Thai law obligates employers to pay substantial severance to employees who are dismissed due to downsizing or closure of a business, as shown in the following chart.

Table 1: Employers’ Severance Obligations under Thai Law¹⁶

Length of Employment at Factory	4 to 12 months	1 to 3 years	3 to 6 years	6 to 10 years	10 to 20 years	20 or more years
Amount of Severance Owed	30 days’ wages	90 days’ wages	180 days’ wages	240 days’ wages	300 days’ wages	400 days’ wages

Additionally, if the employer does not provide workers with advance notice of at least one pay period prior to termination, then the employer must also pay each affected worker, on their final date of employment, additional compensation totaling one pay period’s wages.¹⁷ In the case of Body

¹³ The order of the Department of Labor Protection and Welfare in Nakhon Sawan, dated September 18, 2020, and on file with the WRC, states that 800 workers were terminated.

¹⁴ “Triumph denies links with firm that laid off 800,” *Bangkok Post*, August 1, 2020, <https://www.bangkokpost.com/business/1961067>.

¹⁵ Workers told the WRC that a total of 915 employees lost their jobs as a result of the factory closure. According to the Department of Labor Protection and Welfare’s order, a Body Fashion representative told the department on August 26, 2020, that Body Fashion still employed 151 workers as of that date.

¹⁶ Thailand Labor Protection Act, B.E. 2541, § 118, amended by LPA (No. 7), B.E. 2562 (2019), states: “[A]n employer shall pay severance pay to an employee whose employment is terminated, as follows: (1) An employee who has worked for at least 120 consecutive days, but for less than one year shall be paid basic pay for not less than 30 days at the most recent rate of basic pay received by him or not less than the basic pay he received for work performed in the last 30 days in respect of an employee who is rewarded on the basis of his output; (2) An employee who has worked continuously for at least one year but less than three years shall be paid basic pay for not less than 90 days at the most recent rate of basic pay received by him or not less than the basic pay for work performed in the last 90 days in respect of an employee who is rewarded on the basis of his output; (3) An employee who has worked consecutively for at least three years but less than six years shall be paid basic pay for not less than 180 days at the most recent rate of basic pay received by him or not less than the basic pay for work performed in the last 180 days in respect of an employee who is rewarded on the basis of his output; (4) An employee who has worked consecutively for at least six years but less than 10 years shall be paid basic pay for not less than 240 days at the most recent rate of basic pay received by him or not less than the basic pay for work performed in the last 240 days in respect of an employee who is rewarded on the basis of his output; (5) An employee who has worked consecutively for at least 10 years but less than 20 years shall be paid basic pay for not less than 300 days at the most recent rate of basic pay received by him or not less than the basic pay for work performed in the last 300 days in respect of an employee who is rewarded on the basis of his output; (6) An employee who has worked for more than 20 years consecutively shall be paid basic pay for not less than 400 days at the most recent rate of basic pay received by him or not less than the basic pay for work performed in the last 400 days in respect of an employee who is rewarded on the basis of his output.”

¹⁷ Thailand Labor Protection Act, B.E. 2541, § 7, amended by LPA (No. 7), B.E. 2562 (2019), § 5.

Fashion, daily salaried workers were owed 21 days' wages in notice pay and monthly salaried workers were owed 30 days' wages in notice pay.

The DLPW issued an order pertaining to terminal compensation owed to former Body Fashion employees in Nong Krot on September 8, 2020, followed by minor augmentations on September 18, 2020. The DLPW ordered Body Fashion to pay workers severance pay, additional severance pay in lieu of advance notice, annual leave, and one day's wages (for their final date of employment, July 31, 2020).

Body Fashion requested the DLPW to extend the time limit for filing an appeal but did not provide any reason for this request. To be permitted to appeal, a party must deposit a fee to the court. Although the company did not pay the required amount, and despite the late filing, the court nevertheless proceeded to consider the company's appeal. On April 25, 2022, the ruling by the Labor Court (Region 6) in Nakhon Sawan on the termination case upheld the order of the DLPW, affirming that Body Fashion must pay the 757 former employees who had filed the complaint their full legally owed compensation.¹⁸

The Labor Court ruled that the total terminal compensation owed to the 757 workers named in the complaint was 84,840,748.20 baht. However, it then subtracted the 23,512,106.78 baht that these workers had received from the Employee Welfare Fund of the DLPW, following their employer's failure to pay timely severance, and concluded that the employer owes workers the remaining 61,328,641.42 baht. The WRC recognizes that, on at least one previous occasion in Thailand, laid off workers have been required to return funds received from the Employee Welfare Fund after receiving severance from their employer.¹⁹ Additionally, the WRC recognizes that payment of terminal compensation is entirely an obligation of the employer under Thai law. Therefore, the WRC finds that it is the obligation of Body Fashion to pay the full severance and notice pay due to these former employees in Nong Krot: 84,840,748.20 baht.

A separate court ruling a month earlier, on March 15, 2022, ordered Body Fashion to pay 132 workers in Nong Krot who were dismissed on September 30, 2020, a total of 21,040,315.36 baht. A ruling on May 24, 2022 ordered Body Fashion to pay 900,316.89 baht to 16 workers, 15 of whom were dismissed on September 30, 2020, and one who was fired on July 31, 2020.

Twenty-four workers at the Bang Pla facility were laid off on October 1, 2020. On December 4, 2020, the DLPW ordered Body Fashion to pay a total of 7,776,515 baht to 23 of these workers for owed wages, accrued vacation, severance pay, and notice pay. After Body Fashion failed to comply with the DLPW's order, these workers brought their case to the court; on January 21, 2022, the court ruled that Body Fashion must comply with the order of the DLPW. On May 17, 2022, the court ruled that the remaining worker is owed 430,680 baht; in addition to unpaid wages, severance

¹⁸ The decision issued by the court is on file with the WRC.

¹⁹ For example, former employees of the Worldwell Garment factory in Thailand, which closed in 2010, were required to return funds they had received from the Employee Welfare Fund after they received additional payments toward their terminal compensation, following the auctioning of company assets by the Legal Execution Department. In addition, they were required to pay interest on the funds they had received from the Employee Welfare Fund. As a result, the former Worldwell Garment employees never received full severance.

pay, and notice pay, the amount included medical expenses. The remaining three Bang Pla employees were dismissed on April 1, 2021, and on November 12, 2021, and the court ruled that they are owed 2,069,739.01 baht.

Aggregating the amounts from all outstanding severance-related cases, from both of Body Fashion’s facilities, yields a total of 117,058,314.46 baht (\$3.28 million) in severance owed to workers.

C. Finding: Nonpayment of Bonuses Owed to Workers

In recent years prior to the closure, Body Fashion management regularly paid each employee a bonus of two months’ wages plus 7,200 baht. The annual payment schedule was in two installments: a bonus of one month’s wage in March and another bonus of a month’s wage plus an additional 7,200 baht in December. Payment of the bonuses is mandatory because it was provided for in the legally binding collective bargaining agreement covering Body Fashion’s employees.²⁰

In December of 2019 and March of 2020, at both the Nong Krot and Bang Pla facilities, the factory failed to pay these mandatory bonuses, depriving more than 800 workers of more than two months’ wages.

Worker complaints to the Thai authorities led to an additional set of Labor Court rulings related to bonuses. As in the case of severance, all rulings reaffirmed Body Fashion’s obligation to pay workers their arrears. We outline below these different rulings and the amounts owed to the different groups of workers whose claims were affirmed in each case.

It should be noted that 96 of the workers who are owed bonuses are also owed an additional form of compensation: a longevity bonus—a payment in gold provided customarily to Body Fashion workers upon completion of 10 years of employment. Although not part of the collective bargaining agreement, this longevity bonus had been provided for many years at Body Fashion. According to Thai law, customary benefits are also considered part of the employment conditions which must be provided by the company unless discontinued through agreement with the employees.²¹ However, this compensation went unpaid in 2019 and 2020, in the absence of any agreement to discontinue it.

The Labor Court (Region 6) in Nakhon Sawan issued a decision on February 9, 2022, in favor of the 818 former Body Fashion employees in Nong Krot named in one bonus case. In addition to including workers who are also owed severance, the case included some workers who had resigned

²⁰ Thai Labor Relations Act, B.E. 2518 (1975) § 18. All Body Fashion employees in Nong Krot were represented by the Trade Union Undergarment of Thailand, registered on October 1, 2013. While the union had become inactive by the time the violations described in this report started, its collective bargaining agreement (CBA) remained in effect. The October 1, 2014, to September 30, 2017, CBA covering Body Fashion’s employees detailed the amount of this bonus. The ensuing CBA for the period of October 1, 2017, to September 30, 2020, stated that the benefits of the previous CBA, including this provision, would remain the same.

²¹ Thai Labor Relations Act, B.E. 2518 (1975) § 18 - 20. The Supreme Court of Thailand has interpreted the clause “terms of employment” to refer to both written employment contracts (including collective bargaining agreements), as well as “other existing working conditions not stipulated in a collective bargaining agreement either written or oral” (Case No. 673/2536), and “conditions that have not been clearly stated to employees, but nevertheless have been executed by the employer” (Case No. 531/2536).

prior to the terminations, and therefore are not owed severance, but are still owed unpaid bonuses for 2019. The Labor Court's decision affirmed that workers are legally due the bonuses that should have been paid in December 2019 and March 2020. Specifically, daily salaried workers are owed unpaid bonuses that were due on December 21, 2019, and March 21, 2020, and monthly salaried workers are owed unpaid bonuses that were due on December 30, 2019, and March 30, 2020. The Court ruled that the aggregate amount owed to all 818 workers named in this case, inclusive of the unpaid longevity bonus of gold (as valued in baht), is 20,638,490 baht.

Six separate court rulings, collectively involving 27 workers from the Bang Pla facility, were issued, respectively, on November 12, 2021, January 21, 2022 (three rulings were issued that day), February 3, 2022, and May 17, 2022. In the aggregate, these rulings determined that Body Fashion must pay these 27 workers a total of 1,997,050.50 baht in bonuses and related compensation, including medical expenses owed to one worker.

Aggregating the amounts owed, as determined in all of the court cases that involved unpaid bonuses, the Body Fashion workers are owed a total of 22,635,540.50 baht in bonuses and related compensation.

D. Interest Owed to Workers

Under Thai law, employers that fail to pay legally owed compensation accrue significant additional financial obligations to their employees.

Article 118 of the Thailand Labor Protection Act requires an employer that is noncompliant with its terminal compensation obligations to pay interest to the affected employees at the rate of 15 percent per year.²² With three years now lapsed since the terminations of July 31, 2020, these former employees have accrued three years of interest. Therefore, including the three years of accrued interest, the 757 workers who were party to the primary court case (involving termination pay) are owed 123,019,084.89 baht. An additional 148 workers in Nong Krot and the 27 workers in Bang Pla, all of them party to the other court cases involving termination pay, are now owed 46,404,285.23 baht, including interest.

In the case involving bonuses, the Labor Court (Region 6) in Nakhon Sawan ordered Body Fashion to pay interest of 7.5 percent for the first year of nonpayment, to be dated from the date the case was filed, July 17, 2020, and further ordered interest of five percent payment annually thereafter until the 818 workers named in the case have received their full due amount. With the interest arising from this Labor Court ruling, these worker are owed a total of 24,250,225.75 baht. The bonus case ruling for 27 Bang Pla workers included similar interest rates, bringing the total arrears, with interest, to 2,346,534.34 baht.

²² Thailand Labor Protection Act, B.E. 2541, § 118, amended by LPA (No. 7), B.E. 2562 (2019) states: "In the case where the employer ... fails to pay compensation when the employer terminates the business establishment under Article 75 or severance pay under Article 118 or special severance pay in advance or special severance pay under Article 120, Article 121/1 and Article 122, the employer shall pay the employee interest during the period of default at the rate of fifteen percent per annum."

Adding together all amounts due to all affected workers, Body Fashion owes its former employees a total of 209,863,589.42 baht, of which 60,623,021.21 is interest. In US dollars, at the December 8, 2023, exchange rate, this equals \$5.9 million.

E. Impact on Workers

Three years since the factory closure, former Body Fashion workers interviewed by the WRC describe a severe deterioration in their quality of life due to the nonpayment of severance.

One 60-year-old woman, who started working at Body Fashion in 1990 and toiled there for 30 years, told the WRC: “The day I got the termination letter [with no severance] it was like the world was ending. My heart was broken.” She had intended to use her severance or retirement pay to buy a professional sewing machine to be able to sew clothes at home for sale in her neighborhood. She has been unable to do so. She previously provided significant financial support to her mother and disabled nephew, and, without her severance and back wages, she is no longer able to give them much help. She said she eats smaller portions now at her meals and that “sometimes I don’t have enough money to eat.”

Others also described looking for ways to save money on food. One woman told the WRC she has taken up foraging for bamboo shoots in order to have enough to eat. Referring to the twin 11-year-old nieces and an 8-year-old nephew whom she is raising, a 53-year-old woman who had worked at Body Fashion for 11 years said that while she is making sure the kids can still get adequate nutrition, she and her husband have had to downgrade their own diet to save money: “We focus on food for the children—for my husband and me, we eat anything available.”

Affording essential medical care has been very difficult for many of the workers. One woman, who is caring for her diabetic husband, who cannot work due to a leg amputation, worries she will not be able to pay for insulin for her own diabetes. Another woman who has kidney disease and heart valve disease said she has used up all her savings, sold her gold necklace, sold her cows, and gone into debt to pay for twice weekly dialysis.

Unsurprisingly, workers’ ability to adequately house their families has also deteriorated. Various workers describe enduring dilapidated living conditions with no ability to pay for necessary repairs, facing foreclosure of their homes, and having to borrow from loan sharks to avoid foreclosure or eviction. The WRC also learned that some workers have lost their homes outright to foreclosure.

F. Ownership of Body Fashion: Robert Ng

Robert Ng is the owner of Body Fashion and bears legal responsibility for the compensation owed to the factory’s former employees. Body Fashion, located at 194/2 Moo 5, Nong Krot subdistrict, Mueang Nakhon Sawan district, Nakhon Sawan, was acquired by Robert Ng,

in January 2016, from the Swiss company Triumph Holding AG.²³ Triumph Holding AG, which owns underwear brand Triumph International, has issued public communications referencing Ng's acquisition. Body Fashion's legal shareholders after Ng acquired it were Body Fashion Thailand Co. Ltd., which owns the majority of shares; Body Fashion Hungary Co. Ltd.; and Pacific Dunlop Garment Co. Ltd.²⁴ Robert Ng controls all three entities.²⁵

Robert Ng also owns Huber Holding, a century-old Austrian company, which was a major buyer from Body Fashion. Huber states on its website that it has been wholly owned by Benger Brands, which has been owned by Robert Ng since 2010.²⁶ Ng has served as the CEO of Huber since 2017.²⁷

Although a full accounting of his financial position is not available, all indications are that Robert Ng and the various businesses he owns and/or controls have sufficient financial resources to pay the Body Fashion workers the money his company legally owes them. The WRC has identified businesses owned and/or controlled by Robert Ng in Germany, Hong Kong, Sri Lanka, Thailand, and Austria. A non-exhaustive list of corporations owned or controlled by Ng includes Berlei International Ltd., Berlei IP Ltd., BF Brands Ltd., Eastside Holdings Ltd., Elkhorn Enterprises Ltd., Embody Holdings Ltd., Fiori Intimate Apparel Ltd., Great Park Holdings Ltd., Lanka Investments Ltd., Marrakesh Investments Ltd., Tavistock (HK) Ltd., Green Endeavours Ltd., Huber Retail (HK) Ltd., Courtaulds Trading Company Pvt. Ltd., Courtaulds Clothing Lanka, Courtaulds Clothing (HK) Ltd., Alwero Holding (HK) Ltd., PD Enterprise Ltd., PD Clothing and Textile Ltd., PD Garments Ltd., PD Clothing Shanghai Ltd., and PD Group, as well as Body Fashion and Huber Holding.

To cite one example of the resources available to Ng, Huber Holding paid a dividend of eight million euros in 2022—substantially more than the Body Fashion workers are owed.²⁸

G. Robert Ng's Failure to Respond

On July 17, 2023, the WRC wrote to Robert Ng asking whether he intends to pay the Body Fashion workers the money they are legally owed. The WRC copied this communication to Sunheng Ng (who succeeded Robert Ng as Managing Director of two of Huber Holding's brands, Huber

²³"Triumph denies links with firm that laid off 800," *Bangkok Post*, August 1, 2020, <https://www.bangkokpost.com/business/1961067>.

²⁴ This list of shareholders is from Body Fashion's April 30, 2019, shareholder meeting. The document is on file with the WRC.

²⁵ Corporate records obtained from <https://www.icris.cr.gov.hk/csci/> in February and March 2023 are on file with the WRC.

²⁶ See, for example, Andreas Danzer and Jutta Berger, "Chinesische Investoren auf Einkaufstour in Europa," *derStandard*, March 1, 2018, <https://www.derstandard.at/story/2000075297297/chinesische-investoren-auf-shoppingtour-in-europa>; "Huber Holding: Sanierungsplan rechtskräftig bestätigt," *Vorarlberg Online*, November 6, 2020, <https://www.vol.at/huber-holding-sanierungsplan-rechtskraeftig-bestaetigt/6800296>; Manuel Friedl, "Huber: Gläubiger bestätigen Sanierungsplan," *textilzeitung*, August 31, 2020, <https://www.textilzeitung.at/business/news/es-geht-weiter-huber-glaebiger-bestaetigen-sanierungsplan-13284>; and "Wäsche-Huber bald zur Gänze chinesisch," *oe24*, May 25, 2010, <https://www.oe24.at/businesslive/waesche-huber-bald-zur-gaenze-chinesisch/846063>.

²⁷ Anja Probe, "Huber Holding : Zieger leaves, Robert Ng is the new CEO," *TextilWirtschaft*, April 5, 2017, <https://www.textilwirtschaft.de/business/personen/Waescheanbieter-Huber-Holding-Zieger-geht-Robert-Ng-ist-neuer-CEO-203880>.

²⁸ Huber Holding, Konzernabschluss zum 31. Dezember 2022, Anlage 3, p.4, on file with the WRC.

Bodywear and Skiny, in the summer of 2023),²⁹ along with other executives of Huber Holding. We received no reply.

On August 18, the WRC sent further inquiries to Robert Ng and to numerous additional representatives of Huber Holding. We received no reply.

Victoria's Secret reports that, at the WRC's request, it has also made multiple attempts to reach Robert Ng, starting in April 2023. Victoria's Secret also received no reply.

As of the publication of this report, the WRC still has not received any response from Robert Ng, Sunheng Ng, or any Huber Holding representative, concerning the money legally owed to the former Body Fashion workers.

H. Responses from Buyers

The WRC contacted each brand that we identified as a recent customer of Body Fashion—Lane Bryant, Huber Holding, Triumph International, and Victoria's Secret—prior to the publication of this report.

Triumph International responded to our communication but has refused to acknowledge any responsibility to the workers. Triumph argues that it has no such obligations because, it claims, it ceased sourcing from the factory in 2019.

The WRC sought clarification as to the exact date on which Triumph's commerce with Body Fashion concluded; through a series of exchanges over a period of weeks, Triumph proceeded to provide three different answers to this question. Triumph first claimed, in its initial communication to the WRC, that its last orders from Body Fashion were shipped "at the beginning of 2019". After the WRC advised Triumph that we had identified commercial records showing shipments from Body Fashion to Triumph well after the beginning of 2019, Triumph supplied a different date for its last commerce with the factory, claiming, in a subsequent message, to have received its final shipments from Body Fashion in June 2019. Then, in a third communication to the WRC, after we asked Triumph to account for records showing shipments into October 2019, Triumph provided a third answer, stating that it received the final shipments in July 2019. As to the October shipments and others made after July that appear in commercial records, Triumph claimed they reflect the buying back of unused fabric.

Triumph also provided shifting explanations for why it ended the business relationship. The company initially blamed the new ownership, claiming that at some point after Robert Ng acquired the factory from Triumph, there was "a serious deterioration" of the factory's performance, including repeated late and incomplete deliveries that "deeply impact[ed]" Triumph's business. This,

²⁹ "Managing Director: Sunheng Ng, No Longer Managing Director: Man Choong Ng," June 29, 2023, <https://www.northdata.com/?id=5315908966285312>; June 29, 2023, <https://www.northdata.com/?id=5665742323712000>; June 30, 2023, Skiny bodywear GmbH, Götzis, Austria, on file with the WRC; June 30, 2023, Huber Bodywear GmbH, Götzis, Austria, on file with the WRC; July 7, 2023, <https://www.northdata.com/?id=4894900698480640>. Sunheng Ng became an officer of Huber Holding on January 16, 2023, see: "Officer: Sunheng Ng," January 18, 2023, <https://www.northdata.com/?id=5700870803554304>.

Triumph said, forced it to pull out of Body Fashion in 2019. The WRC pointed out that Triumph had a responsibility, at the time it left, to carry out its exit from Body Fashion in a responsible manner, citing standards Triumph has publicly embraced that obligate buyers to “ensure a responsible transition” for suppliers, in order to minimize the harm to workers from suppliers’ loss of revenue.³⁰ We asked Triumph to enumerate the steps it had taken to achieve a responsible transition from the factory. Triumph then responded with an entirely different, and contradictory, timeline for its exit process: its decision to leave was part of its “due diligence” *during the 2016 sale* of the factory, the company now claimed, and it carried out a “managed phase-out of orders” between 2016 and 2019. Obviously, if Triumph’s decision to exit was made *in conjunction* with its sale of Body Fashion to Robert Ng, then a deterioration in performance *that began after the sale* cannot have been the basis of the decision. It is unclear whether either of the two versions of events presented by Triumph is true, but at least one must be false.

Given that some form of commerce between Body Fashion and Triumph was still taking place in late 2019, given that the factory’s failure to pay legally mandated compensation commenced no later than December 2019, and given that Triumph’s departure was likely a precipitating factor in the factory’s demise, Triumph cannot, by any reasonable standard of corporate ethics, disclaim all responsibility for remedying the theft of the Body Fashion workers’ compensation. Triumph’s shifting answers about the timing of, and reason for, its departure from the factory suggests that the company may itself recognize the weakness of its position that it has no responsibility whatsoever to these workers under its own labor standards.

While there is no question that Triumph sold the factory in 2016, many Body Fashion workers accrued the bulk of their severance entitlement before the sale, while they were directly employed by Triumph. And much of the remainder was accrued while Triumph was still a buyer, for at least three years after the sale. Triumph insisted to the WRC that it “cannot be held responsible for the [new owner’s] self-inflicted problems and inadequacies and their consequences more than 4 years after the sale had taken place.” What Triumph fails to note is that the workers of Body Fashion, not the owner, are the ones paying the price for those failings and inadequacies—more than \$5 million in lost compensation—while Triumph washes its hands.

Lane Bryant, and its owner Sycamore Partners, have been entirely unresponsive, failing to respond to multiple communications, even though Lane Bryant’s code of conduct, like Triumph’s, obligates it to ensure labor rights compliance at supplier factories. Lane Bryant has chosen to ignore, and apparently intends to do nothing about, \$5.9 million dollars unlawfully denied to workers who made its clothing. Lane Bryant states publicly that it “aligns [itself]” with suppliers that “share” a “commitment” to “responsible manufacturing standards”. It is unclear how its alignment with Body Fashion, and its subsequent failure to even acknowledge Body Fashion’s theft of workers’ severance, further Lane Bryant’s “commitment” to corporate responsibility.

³⁰ We referred Triumph to its 2019 Slavery and Human Trafficking Statement, in which the company cites its endorsement of the BSCI Code of Conduct and its terms of implementation, claiming to “cascade them through [its] supply chains”.

Victoria's Secret has been the most responsive. The company tried to contact Robert Ng, without success, and provided the WRC with some information concerning some of the corporations owned by Ng. However, beyond this modest assistance, the brand has taken no steps to address the violations and the plight of workers. It is also notable that this is the second time in three years that the WRC has documented, in the brand's supply chain, a case of severance theft involving more than \$5 million. Victoria's Secret remedied the first case. It has not remedied the second.

IV. Conclusion

By suspending workers without paying legally mandated wages and then terminating workers without payment of legally mandated severance and bonuses, Body Fashion has violated Thai law and buyer codes of conduct. Including unpaid wages, severance, notice pay, bonuses, and accrued (legally mandated interest), Robert Ng's company, Body Fashion, owes the Body Fashion workers 209,863,589 baht (US\$5.9 million).

The WRC will continue to seek a commitment from the factory owner, Robert Ng to remedy the violations described in this report by paying the workers the money they legally earned, working for years or decades at the factory. The factory's buyers, including Lane Bryant (Sycamore Partners), Triumph International, and Victoria's Secret, should make every effort to convince Robert Ng to ensure payment. If he does not, then the only way these workers will ever see their money is if these buyers utilize their own ample resources to pay them what they are owed.