



WORKER RIGHTS CONSORTIUM

**Worker Rights Consortium Progress Report
re Implementation of Russell Athletic/Fruit of the Loom
Remediation Agreements for Operations in Honduras**

Findings and Status Report

February 17, 2010

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I. Introduction

This is a findings and status report concerning implementation of the accords reached on November 14, 2009 between Russell/Fruit of the Loom, the Central General de Trabajadores (CGT), and the Sitrajerzeesh (SJT) union, and, separately, between Russell and the WRC.

It is the WRC's conclusion that very substantial progress has been made toward the implementation of the agreements and that Russell has demonstrated a commitment to fulfill its obligations under the agreements and under applicable codes of conduct. In the areas of most immediate concern to workers and their representatives – including the opening of the new factory (called Jerzees Nuevo Dia), the rehiring of former Jerzees de Honduras workers at the new facility, the company's recognition of the SJT union as the representative of the Jerzees Nuevo Dia workforce, and the company's contribution to a worker welfare fund – progress has been solid. There are areas where implementation has proceeded more slowly than had been agreed, and there have been some disputes between the parties. However, the evidence supports the conclusion that these instances do not reflect a lack of commitment to implementation on the part of Russell, but rather the logistical challenges inherent in implementing such sweeping agreements and the challenge of assimilating local and regional management to a new labor-management relationship built on full respect for workers' associational rights.

It is essential that Russell continues to implement the agreements in good faith, paying particular attention to those issues where swifter action is needed, and that the company does its part to achieve an equitable and timely resolution to future disputes with the CGT and SJT.

We are pleased to be able to report that implementation of the accords is proceeding on a positive course. The WRC will continue to monitor the process closely and will report to affiliate universities and colleges as circumstances warrant.

II. Findings

The following findings are based on the WRC's ongoing monitoring of developments in Honduras, including interviews with workers, union staff, and union advisors, communication with Russell management and outside counsel, a review of relevant documents, and direct observation of key events.

A. Opening of Factory and Re-employment of Jerzees de Honduras Workers

Russell Commitment: Russell agreed to open a unionized apparel factory near the former site of Jerzees de Honduras (JDH) and to re-employ former JDH workers at this facility. The company committed to extending offers of employment to all former JDH workers, whether at the new facility or at Russell's other facilities in the San Pedro Sula area.

Verified Actions: On January 4, 2010, Russell commenced operations at the new facility, Jerzees Nuevo Dia (JND). The plant is located in Zip Choloma, a short walking distance from JDH's former location. It is manufacturing basic t-shirts.

The company initiated the hiring process on November 25, 2009 and worked through December to renovate the facility. As of February 15, 2010, the company had hired 116 workers. This includes 70 workers identified by Russell as "direct associates," workers paid on piece rates and

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who are directly involved in the manufacturing process, namely sewing machine operators; and 46 “indirect associates,” workers who are paid on a fixed pay rate, such as mechanics, material handlers, janitors, auditors and forklift drivers. The union reports that all 70 of the direct associates hired thus far are union members, while 74% of the indirect associates are affiliates of the union. The facility has also hired 17 managerial employees.

As per the November 14 agreement, Russell has worked with the union throughout the hiring process. The process has been as follows: When the company is prepared to hire a certain number of workers of particular positions, it has informed the union of its needs. The union has then conducted outreach to identify workers who are able to fill these positions and directs workers to Russell’s hiring office in Choloma to complete the formal hiring process. Consistent with the agreement, Russell has not required re-employed workers to undergo a new probationary period before being hired.

The November 14 agreement included a projected hiring schedule under which JND would ramp up to its capacity of 764 employees between December 2009 and the end of April 2010. Hiring at JND is behind the projected schedule, due primarily to issues surrounding workers’ new employment contracts and production targets (as discussed below). As those issues have been resolved, it is expected that the hiring process will accelerate and meet or exceed the targeted goals. Per the November 14 agreement, once the JND facility has reached capacity, Russell will extend offers to all remaining former JDH workers at one of the company’s other facilities.

B. Workers’ Welfare Fund

Russell Commitment: Russell agreed to make a substantial contribution to a social welfare fund to assist the former JDH workers, with the money to be distributed to workers by the WRC, the Solidarity Center, and Sitragerzeesh. Russell committed to contribute to the fund in three tranches, with a first tranche to be wired within thirty days of the November 14 agreement, a second tranche to be transferred on June 30, 2010, and a third tranche to be transferred on March 31, 2011.

Verified Actions: On Friday, December 11, Russell wired the funds it had pledged to provide to an account established in Honduras to manage the distribution of the workers’ welfare fund. In so doing, Russell met fully its obligations to date in this area. Under the November 14 accord, the company is responsible only for making the funds available; it holds no responsibility for the distribution process. Russell’s transfer was made in US dollars and converted to Honduran lempiras at the rate of 1 USD = 18.89 HNL.

Note: All figures listed in this report are in US Dollars, unless otherwise noted.

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The results of the distribution of the fund thus far are set out in the following table:

Workers' Welfare Fund: Progress to Date	
Total number of eligible workers	1287
Number of workers who have received payment	1225
Number of workers who have not yet received payment	62
Percentage of eligible workers who have received payment	95.2%
Amount provided to each worker	\$1003.75 ¹

At least 93% of the funds available after paying for expenses related to the negotiations have been allocated to directly benefit individual former JDH workers. A small portion of each worker's allotment (roughly \$52.77) is being used to establish a worker credit and savings cooperative. The purpose of the cooperative will be to provide small loans to workers at a reasonable rate of interest; *maquiladora* workers in Honduras have very little access to affordable credit. The remaining 7% has been allocated to cover the costs to be borne by CGT and Sitrajerzeesh for the implementation of the November 14 agreement. This allocation of funds was approved unanimously at the Sitrajerzeesh union assembly held on December 13 and also approved through individual statements signed by all worker beneficiaries who are not members of Sitrajerzeesh.

Those workers eligible to benefit from the welfare fund include all Sitrajerzeesh members and all other production workers employed by the factory as of October 8, 2009, the date the closure of Jerzees de Honduras was announced. It was the recommendation of the union leadership that all former JDH employees receive the same amount of money, including workers who did not join or support the union, and this recommendation was embraced by the union membership. From the first tranche of funds, each worker received \$1003.75, representing approximately 5.2 months of JDH's base salary.² From each of the second and third tranches, workers will receive an additional 1.7 months of base salary, for a combined total for the three disbursements of 8.6 months of pay.

As indicated in the table above, at present, 1225 of the 1287 eligible workers, roughly 95%, have thus far received payment from the first tranche of the disbursement. This response rate is unusually high for settlement fund disbursements in the third world apparel industry carried out a substantial period after a mass termination – in this case more than eleven months. It is believed that many of the 62 workers who have not come forward or been located have migrated out of the country. The WRC is working with Sitrajerzeesh and the Solidarity Center to develop a process to enable these workers to receive payment.

The disbursement was carried out through direct deposit into workers' accounts – a method with two advantages. First, it is the best method of payment from the point of view of workers' security, as it avoids a situation in which workers have a large amount of cash, or a cashable check, in their possession, which could make workers a target for thieves. Second, this approach

¹ Each worker received Lps 19,021.40. The dollar figures presented here and elsewhere in this document are based on the interbank exchange rate of January 15, 2010 (1 USD = 18.95 HNL).

² Workers at JDH received a guaranteed salary of Lps 121.32 per day (roughly USD \$6.40), Honduras' minimum wage for the apparel sector, in addition to incentive pay for production depending on each worker's productivity.

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enables workers to establish a savings account, in the case of many workers for the first time in their lives, which they can use to manage their money. The union was able to negotiate a group rate with the bank Banco de Occidente to establish the account (costing \$1.06 per worker instead of the normal rate of \$5.28). The cost of executing the transfers (\$1.32) is being taken out of funds set aside for administration of the agreement.

The process has been carried out as follows: Workers were instructed, at a mass assembly held on December 13 and through other channels, to set up savings accounts at Banco de Occidente. Banco de Occidente was selected because it has substantial experience conducting payroll transactions for *maquila* factories and has numerous locations in the Choloma/San Pedro Sula area. The workers were instructed to then provide their account numbers to the CGT, which verified each worker's identity with WRC and Solidarity Center oversight, and to sign relevant paperwork. Next, the account numbers were submitted to the bank, which disbursed the funds in each worker's account via direct deposit.

While the general account referenced above is in the name of CGT and Sitragerzeesh officials, per agreement between the parties, the WRC and Solidarity Center must approve all withdrawals and transfers and have access to all records related to the disbursement.³ The WRC has reviewed all relevant materials and has confirmed that all disbursements were made in accordance with disbursement plan approved by the JDH workers and in accordance with the established protocol for bank transactions.

An important goal of the disbursement process was ensuring that most workers received funds prior to the Christmas holiday. This goal, which required quick work by all of the parties, was achieved. By Christmas Day, 1182 of the eligible 1287 workers – about 92% – had set up accounts and been transferred their allotment. The overwhelming majority of workers had money in their accounts within one week of the transfer of funds from Russell.

With respect to the worker finance cooperative, the CGT and Sitragerzeesh decided, with WRC and Solidarity Center approval, to place the funds allocated for its creation in a six-month fixed term account so that interest can be earned while the procedures to legally establish and manage the cooperative are carried out. The cooperative, a “credit, savings, and multi-service cooperative,” will be overseen by the Honduran Institute of Cooperatives (“Instituto Hondureño de Cooperativas”), an arm of the Honduran government.⁴

³ Documentation reviewed by WRC includes the following:

- A letter of receipt from Banco de Occidente confirming Russell's transfer of December 11, 2009, dated December 16, 2009
- A file containing the names and identification numbers of each of 1287 eligible workers, with account numbers for 1225 workers
- Letters of instruction from CGT and Sitragerzeesh for each transfer (dated December 20, 22, and 24, 2009 and January 4, 7, 11, 18, 20, 2010)
- Banco de Occidente documents confirming that each transfer has been made (dated December 21, 22 and 24, 2009, and January 5, 8, 12, 18, 21, 2010)
- Statements signed by non-Sitragerzeesh members supporting the allocation of the funds, as approved at the December 13, 2009 Sitragerzeesh assembly
- Statements from Banco de Occidente indicating the current balance of the account (the most recent of which dated January 21, 2010)

⁴ The Institute and the regulation of the creation and management of cooperatives is established by the Law on Honduras Cooperative Associations (“Ley de Cooperativas de Honduras”), contained in Decree 65-87 of 30 April 1987, as amended by Decree 211-93 of October 1, 1993, signed by the President of the Republic on 13 October 1993.

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C. Collective Bargaining at Jerzees Nuevo Dia

Russell Commitment: Russell committed to recognize the union of JDH workers – Sitrajerzeesh – as the representative of the workers of Jerzees Nuevo Dia and promptly commence negotiations with the union on a collective bargaining agreement.

Verified Actions: Russell has, for all legal and practical purposes, recognized Sitrajerzeesh as JND's workers' representative. Through the November 14 accord, Russell formally recognized the union as the exclusive representative of employees at JND for the purposes of collective bargaining and for all other applicable individual or collective claims. Since the accord was reached, Russell has engaged in ongoing dialogue and negotiation with the union around issues related to the hiring of workers at JND.

The process of negotiation of a collective bargaining agreement has not yet commenced. Russell has informed the WRC that it intends to “begin the collective bargaining immediately after the Oversight Committee is up and running, and able to play its role in training and mediation as agreed by the company and the union.” The union has indicated that it is eager to begin collective bargaining as soon as possible. The WRC is hopeful that this will occur within the next month or so.

The parties have agreed upon a third party to provide training to the union and management prior to the initiation of bargaining. The firm selected is Vectra. Russell states that it anticipates the agenda and schedule to be presented by Vectra to the parties during the month of February.

D. Discipline and Training for Managerial Personnel

Russell Commitment: Russell committed to ensure that management of the new facility will be composed of persons who understand freedom of association and will implement practices and policies that are conducive to freedom of association. This commitment was borne of concern by the WRC and other parties regarding the behavior of specific managers identified in the WRC and FLA-Goldin reports as having violated workers' freedom of association.

Verified Actions: Russell has informed the WRC of the following with respect to its actions in this area: “To the extent still employed by the Company, the managers identified in the WRC and/or FLA reports as having violated workers' associational rights have been disciplined in accordance with Company Policy. In essence, this amounted to a final written warning signed by each such employee and placed in their personnel file. In addition, each such person has been individually counseled that any future incident regarding a freedom of association violation will result in termination. Four of these managers have also been transferred to other positions with the Company and have no involvement with JND.”

The WRC has confirmed that the individual whom the WRC believes was most responsible for the unlawful anti-union campaign at Jerzees de Honduras, former regional human resources manager Ricardo Trujillo, has been removed from his duties in Honduras and given a post in Mexico. His removal from the scene is an extremely important step toward establishing positive labor relations and one the WRC strongly recommended. The WRC has also verified that no supervisor or manager identified as having behaved inappropriately in the WRC or FLA-Goldin report is now employed at JND. The company has hired as human resources manager for the

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JND plant a manager whom the union and individual workers have reported has a positive track record on respect for worker rights. The WRC has also verified that senior management of Russell and Fruit of the Loom has taken an active role in labor relations issues at JND.

As one area of concern, the person currently serving as Russell's director of human resources for Central America is someone who was identified as having played a role in the anti-union activities at JDH. It will be important for Russell to monitor this person's performance closely and to ensure that he fully understands his obligations under the accords.

E. Oversight Committee, Ombudsperson, and Dispute Resolution

Russell Commitment: Russell committed to accept and participate in a robust set of oversight mechanisms to ensure effective enforcement of the terms of the accord and the timely and equitable resolution of disputes. Specifically, the agreement establishes a three-member Oversight Committee, which is to serve as a facilitating and mediating body and appoint an ombudsperson to monitor day-to-day issues relating to implementation of the agreement. The committee's policies and procedures are determined by a five-member Board of Directors, which is comprised of the committee's three members and two additional directors. The union and company each appoint a committee member and nominate an additional director; the fifth director, who also serves on the Oversight Committee, is appointed by the other four directors.

Verified Actions: At present, two members of the Oversight Committee and two additional members of the Board of Directors have been selected by the union and company. The committee members are Claude Fontheim (for the company) and Jeff Hermanson (for the union). The additional directors are Donna Chung (for the company) and Yadira Minero (for the union). Claude Fontheim is President of Fontheim International and served as the company's chief representative in the negotiations that led to the November 14 agreements. Jeff Hermanson is Assistant Executive Director of the Writers Guild of America and served as Sitragerzeesh's chief representative in the negotiations. Donna Chung is Trade and Social Compliance Advisor at Sandler, Travis & Rosenberg, P.A. and participated in the negotiations. Yadira Minero is a Honduran attorney and project director at the Center for Women's Rights in San Pedro Sula, Honduras.

A candidate for the fifth and final position on the board has been identified, but will need to meet with the company and union before she is confirmed. An ombudsperson has not yet been named; this appointment must be made by the full board. Russell stated that it expects the ombudsperson to be named during the first quarter of 2010.

Thus far, there have been two disputes between the company and the union which have required the involvement of the current members of the Oversight Committee. The first concerned the inclusion of language in JND's new employment contracts that bears on the way a particular weekly benefit to workers, called the "seventh day" bonus, is calculated. Russell previously calculated the benefit at JDH in two different ways, with one approach (applying to those who were employed by Russell before the company was acquired by Fruit of the Loom) more favorable to workers than the other. The contracts prepared by Russell included language which the union interpreted to imply that all workers would receive the benefit according to the less favorable approach. Both parties also believed the other's preferred language would prejudice ongoing litigation concerning the legally proper calculation of the benefit. Ultimately, with the assistance of the Oversight Committee, a compromise was reached in which each worker will

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receive the benefit as he or she did previously at JDH until factory-wide terms are arrived at through collective bargaining – a resolution consistent with the November 14 CGT-Russell accord.

A second dispute related to plant management's announced implementation of new production targets for workers at the facility. The union objected that the new targets were disadvantageous to workers relative to those in place at JDH and their unilateral implementation would violate the November agreement, which commits Russell to bargain with the union over such matters. The conflict was addressed with the assistance of the Oversight Committee: Russell agreed to defer any changes to production targets pending negotiation with the union.

F. Collective Pacts

Russell Commitment: Russell agreed to work with the CGT on a plan to phase out the collective pacts the company implemented at all of its remaining facilities in Honduras. As the WRC documented in our [June 2009 report](#), the pacts violated international labor standards protecting workers' freedom of association. Russell also agreed to take steps necessary to ensure that these pacts do not constitute barriers to freedom of association in the interim. The company agreed to provide all benefits to which employees are currently entitled under these pacts and to not deny these benefits should employees withdraw from an existing pact or join a union.

Verified Actions: There has not been progress toward eliminating the pacts to date. The company and union have stated they will develop a plan to phase out the pacts going forward. In the meantime, however, Russell has affirmed that it is maintaining the benefits established by the collective pacts for any worker who withdraws from the pact or joins a union. Russell has stated that this approach was communicated to Russell's management team in January and will be communicated to all Honduran workers by the end of the first quarter of 2010. This step will help ensure that prior to the phasing out of the pacts, they do not undermine workers' ability to freely exercise their associational rights,

G. Freedom of Association: Training and Access

Russell Commitment: Russell agreed to a framework for ensuring respect of workers' freedom of association rights in all company factories, including provisions addressing training of workers through a joint union-company training program, carried out by a third party, and union access to facilities.

Verified Actions: At present, there has yet to be implementation of the worker rights training program or provisions for union access to Russell/FOTL facilities. However, the union has not sought to move forward in this area, as attention is presently focused on issues related to the JND facility. A third party to conduct the verification has yet to be approved by the parties (and will require full establishment of the Oversight Committee, which will oversee the process, to move forward). Russell has stated that it expects development of the program with the CGT to begin in February.

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III. Conclusion

In view of the findings outlined above, it is the WRC's conclusion that Russell has demonstrated a commitment to fulfill its obligations under the November 14, 2009 agreements and collegiate codes of conduct. There has been significant progress to date in the areas of most immediate import for the former JDH workers, particularly the opening of JND, the commencement of hiring, and Russell's payment to the workers' welfare fund. As discussed above, these actions have thus far resulted in the distribution of more than five months of compensation to more than 95% of eligible workers and to the re-employment of more than a hundred workers – progress that is extremely meaningful to the affected workers and their families.

We are concerned about those delays and disagreements that have arisen thus far, but it is our conclusion that they reflect the challenges inherent in the implementation of such a broad agreement and in the effort to forge a constructive labor-management relationship where one has not previously existed. It is also encouraging that the oversight process agreed to by the parties has served so far as an effective tool to resolve disputes. The full establishment of the Oversight Committee and appointment of the ombudsperson, as established by the November agreements, will aid further in this regard. It is nonetheless incumbent upon Russell both to continue to implement the accords in good faith and to work hard to address areas of weakness. In particular, it is important for Russell to focus on re-orientation and training of local and regional management to ensure that they embrace and faithfully implement the company's new policies, ones which break sharply with standard practice in the region and the past practices of the company. There is also a need for ongoing vigilance by the WRC as the process continues.

The agreements reached on November 14 represent a huge step forward for labor rights and constructive labor-management relations in the apparel industry. We are encouraged that these agreements are now being implemented and that substantial progress has been achieved.