



WORKER RIGHTS CON

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To: Primary Contacts, WRC Affiliate Colleges and Universities
From: Scott Nova
Date: March 16, 2010
Re: Update on Hugger and Vision Tex (Honduras)

As you know, the WRC has reported that Hugger and Vision Tex, both suppliers of Nike, violated worker rights by failing to pay workers more than \$2.6 million in legally mandated severance and other compensation. This memorandum provides an update on the case, including:

1. -New findings that both facilities violated workers' rights in the period *prior to their closure* by failing to make legally mandated payments to the Honduran national health insurance system (and new recommendations arising from these findings)
2. -A discussion of Nike's proposed job training program and why this program does not constitute a meaningful remedy of the violations workers have suffered
3. -Further discussion concerning the status of these facilities as producers of collegiate apparel, including Nike's disclosure of Hugger as a collegiate supplier, Nike's retraction of that disclosure after the issuance of the WRC's public report on the case, and new evidence suggesting that university production did in fact take place at Hugger

New Finding: Non-Payment of Legally Mandated Health Benefits

In recent months, the WRC has gathered evidence that an additional serious violation of worker rights was committed by both the Hugger and Vision Tex factories: In the months prior to closing, Hugger and Vision Tex failed to make legally required payments on workers' behalf to Honduras' national health insurance program and instead illegally pocketed the deductions from employee pay that are supposed to be used for this purpose.

Honduran law requires that employers enroll workers in the national government health care program, known as the Honduran Social Security Institute (Instituto Hondureño de Seguridad Social, IHSS), and make associated payments. The program is funded in part by mandatory contributions from employers and employees, from whose wages payments are deducted.^[1] IHSS is the primary means for garment workers in Honduras to obtain basic health care, including pre

and post-natal care.

Both factories stopped making payments to IHSS at least several months prior to their closure in January of 2009. Based on the testimonial and documentary evidence gathered to date, it appears that the payments from both companies ceased in late August of 2008, though they may have continued for a few weeks after that point.

As a result of the companies' failure to make contributions to the IHSS system, workers from both facilities were deprived of medical care to which they were legally entitled. Prior to the plants' closure, workers sought care for ailments and injuries, and for pre and post-natal care, but were denied access to IHSS clinics. In some cases, workers were forced to discontinue treatments they were undergoing. The clinics' administrators informed them that they could not be treated because of their employer's failure to pay.

In some cases, workers were able to obtain treatment at private medical centers, but only by paying out of pocket. One Hugger worker, for example, was told by a doctor at a private clinic that she required emergency surgery to remove cysts from her ovaries. Because IHSS refused to provide the surgery, she was forced to pay a private clinic US\$1,184.00 to perform the procedure – an amount equivalent to about six months of Hugger's base salary.

Compounding the violations, both factories continued to make deductions from workers' paychecks and then pocketed the money instead of paying it to the government. In the aggregate, Hugger and Vision Tex stole tens of thousands of dollars from workers through this process. This is, of course, in addition to the \$2.6 million in legally mandated terminal compensation which the factories failed to pay workers upon closure.

It is now more than thirteen months since Hugger and Vision Tex abruptly shut down in January 2009. The strong majority of both plants' workers have been without formal sector employment since the closures. As a result, the workers have continued to go without access to medical care through IHSS. The WRC has been informed that many workers have serious medical conditions which require treatment.

Several implications of these new findings bear mention:

First, it is important to note that the findings outlined here point to a failure on the part of Nike to adequately monitor the factories' compliance with Honduran law *prior to their closure*. The violations reviewed here would have been readily apparent through a competent review of the documentation held at both facilities and through interviews with workers.

Second, Nike has suggested that the sudden closures of both plants, and their failure to pay workers the compensation owed, could not have been predicted. In fact, the failure of the factories to make legally required contributions to IHSS was a clear warning sign of severe financial weakness that monitors should have recognized and acted on. (In the case of Vision Tex, it is important to note that

prior to the factory's closure, the WRC had informed Nike of another indication of financial distress: the factory's dismissal of a substantial number of workers without legally mandated severance and failure to pay the plant's workers a legally required end-of-year benefit).

Production of University Logo Goods

In a communication circulated to universities on March 1, Nike repeated earlier assertions concerning the production of collegiate logo product at Hugger and Vision Tex. Nike stated the following: "To the best of Nike's knowledge, apart from a one-time order of approximately 800 units of collegiate licensed apparel for one university partner, which was produced during three weeks at Vision Tex in 2007, no additional collegiate licensed product was made in either Vision Tex or Hugger."

The WRC addressed this issue at length in a prior [update](#) to universities. However, the issue continues to be a focus of discussion and we address it further below and also provide new information concerning production at Hugger.

Hugger

With respect to Hugger, Nike repeatedly disclosed the factory as a source of collegiate licensed apparel for more than 40 universities, beginning in 2007 and right up until the point of factory closure. At the time the WRC notified Nike of problems at Hugger, and through nine subsequent months of dialogue, Nike did not indicate that any doubts existed about the accuracy of its reports to universities that Hugger was a collegiate factory.

However, shortly after the WRC issued its first public report of labor rights violations at Hugger, in October 2009, Nike reversed its position and stated that its disclosure had been erroneous and that the facility had not in fact manufactured collegiate licensed goods. This is, unfortunately, not the first time that Nike has asserted, after worker rights violations have been uncovered at a factory it has disclosed as a collegiate supplier, that the factory in question had somehow been disclosed in error. For example, Nike made the same assertion after journalists exposed grave labor rights violations at the Hytex factory in Malaysia in 2008.

To a significant extent, the veracity of Nike's current position on the disclosure question is a moot point. As the WRC has previously noted, by reporting Hugger as a collegiate facility, Nike indelibly associated Hugger with the university community in the eyes of relevant stakeholders, including students and the labor rights community. Nike's belated retraction of this disclosure doesn't change this reality. It is therefore reasonable for universities to expect Nike to address the issues at Hugger in a manner consistent with university labor standards, notwithstanding the company's revised position.

However, in response to Nike's recent assertions concerning collegiate production at Hugger, the WRC has looked more deeply at the issue and has identified new

evidence indicating that collegiate apparel was indeed manufactured for Nike at Hugger. Hugger's role in the production process poses challenges to an effort to determine whether the factory worked on university garments: Hugger was a sub-contractor and produced blank garments for Nike that were only embellished after they left the factory. However, some Hugger employees were involved in quality control-related activities at another factory involved in the Nike production process and had the opportunity to view garments in their embellished state. In interviews conducted in Honduras in early March of this year, former Hugger employees testified that they observed university logos on garments that had been manufactured at Hugger.

Vision Tex

Vision Tex was not disclosed as a collegiate supplier by Nike. The WRC reported the factory manufactured collegiate goods based on an array of evidence – including testimony from workers that they worked on university garments, product invoices from the factory bearing university names, and hangtags found on garments left at the factory upon closure with the Collegiate Licensing Company (CLC) insignia. Because this evidence indicated that a substantial quantity of university clothing was produced over a period of years, we were surprised to see Nike's assertion that only 800 units of collegiate licensed garments were manufactured at the plant.

The source of the confusion has since become clear. Vision Tex was producing a line of garments, under the Nike Team label, that the WRC had not previously observed. These garments have product names composed of university names and university team names, bear hang tags with the CLC logo, and are promoted by Nike with university logos and photographs of college athletes in university uniforms. However, Nike has informed us that these garments are not imprinted with university names and logos and instead are sold blank. The WRC has confirmed, based on a review of a partial record of invoices left at the factory upon closure, that more than 250,000 pieces of such apparel were manufactured for Nike at Vision Tex during the two years prior to its closure.

Nike has informed the WRC that it does not consider these garments to be licensed product and that the CLC insignia, and the phrase "collegiate licensed product," were included on the hangtags mistakenly. Whether these garments should properly be considered licensed product is outside the WRC's area of responsibility and expertise and is a matter between Nike and its licensors. The only point we would make is the obvious one: that the use of university names and university team names to market a product may have the effect of associating that product with universities and that this places a burden on the licensee in question to ensure that these products are made in compliance with university labor standards.

Finally, with respect to both Hugger and Vision Tex, it is important to note the following facts which Nike does not dispute:

1. Both Hugger and Vision Tex made large amounts of clothing for Nike
2. The workers of Hugger and Vision Tex were not paid the severance they

- are legally owed
3. Nike is bound not just by university codes, but by its own code and the code of the Fair Labor Association, both of which require Nike to ensure labor rights compliance by its suppliers, regardless of whether they make university logo goods

To Nike's credit, notwithstanding its recent assertions concerning the accuracy of its disclosure data, the company has recognized its responsibility to engage with the university community on the cases of Hugger and Vision Tex. Unfortunately, as discussed in the subsequent section of this update, this engagement has not yet led to meaningful remediation of the labor rights violations at these factories.

Status of Remediation

Workers at Hugger and Vision Tex continue to be owed approximately \$2.2 million in legally mandated compensation – an amount essentially unchanged since the WRC first reported publicly on the cases in October 2009. As we have reported, workers received some funds through the liquidation of assets left at the factory at the time of closure, but this process generated only a small portion of what was owed. Remediation of the violations at the factories requires that workers are paid the remaining amount.

As discussed in previous communications, university codes of conduct require that supplier factories comply with domestic law, including payment of legally mandated compensation and benefits. The codes are silent on the question of whether the licensee is required to correct violations in this area by using its own resources to make workers whole. However, there is no question that a licensee is obligated by university codes to take all appropriate action to ensure that its contractors and/or licensees remedy violations by their suppliers. In this instance, Nike's direct contractors (New Holland and Anvil), and its licensee (Haddad Apparel), violated applicable codes of conduct by having products made at worksites (Hugger and Vision Tex) that did not pay workers in accordance with the law. It falls on these direct contractors – all of which are companies that are still in operation – to correct the violations and, given their failure to act, it is incumbent upon Nike to take appropriate steps to compel them to do so.

The WRC has therefore recommended, for more than a year, that Nike use its considerable influence over these companies to persuade them to make the workers whole. This is the approach that was used to great effect by Gear for Sports and Hanesbrands in the similar case of the Estofel factory in Guatemala. Thanks to these brands' efforts, the direct contractor in that case paid the workers the legally mandated severance they were owed and the violations were thus fully remedied.[\[2\]](#)

Unfortunately, Nike has not, to date, made a serious effort to convince its business partners to compensate the workers.

Nike's Announced Course of Action

Rather than compel its business partners to pay the workers what they are legally

owed, Nike has announced plans to address the cases by supporting a job training program for former Hugger and Vision Tex employees and by promoting unspecified "priority hiring" opportunities at other Nike supplier factories in the area.

There are several reasons why the steps Nike has announced are not sufficient to address the labor rights violations that have been documented.

First, and most obviously, an initiative to provide job training and employment opportunities does not speak to the violations committed by Hugger and Vision Tex: it will not result in workers being paid the compensation owed to them.

Second, with respect to job training, the workers themselves have specifically rejected the approach Nike has outlined. The Hugger and Vision Tex workers sent Nike a letter on February 1, 2010 responding to a communication from Nike that closely matched the statement Nike issued to universities in December. The workers' letter, which was copied to numerous organizations, including the WRC, stated the following (WRC translation):

After our factories were illegally shut down in the month of January 2009 without paying us what we were owed, it took Nike more than five months to meet with us. Now there have been three meetings with you and in each meeting we have explained what Nike should do to correct this situation. We have explained that we worked for many years producing for Nike and we feel that the company has the obligation to make sure that we receive compensation for our work. Instead of giving us answers, the representatives at these meetings just tell us that they will pass the information along in the United States and that you will "see what you can do."

Now we have received this letter from you, but there is no commitment to ensure that we will receive the payment we are owed for having made your products. Your focus now is on "training." We want to be very clear that while our stomachs are empty and we have a lot of debts, we don't need training. We are trained workers with many years of experience making high-quality products. What we need is to receive payment for the work that we have done, which is an obligation established by Nike's own code of conduct. We need jobs, real jobs, which will allow us to pay our rent and buy food for our children. And we need health care because many of us have very serious health problems.

It makes little sense for Nike to pursue a program which the affected workers have made clear they do not consider responsive to their needs and do not support. This is particularly the case when Nike is failing to also pursue remedies to the code of conduct violations that are the subject of the workers' complaints to the WRC and the FLA – the non-payment of compensation owed to them. If Nike is going to pursue efforts that do not directly address these violations, it should at a minimum ensure that such efforts are not opposed by the workers they are intended to benefit.

Nike has also indicated that some of its contractors have offered priority to the former Hugger and Vision Tex workers in hiring for available jobs. However, to

our knowledge, no formal program of priority hiring has been made known to the organized group of Hugger and Vision Tex workers and only a few workers have actually been hired. As Nike has stated: "several of [the former Hugger and Vision Tex] workers" have gotten jobs at Nike supplier factories. Unfortunately, the hiring of several people does not speak in a meaningful way to labor rights violations affecting more than 1,700 workers.

It is not surprising that the existing commitment to priority hiring has failed to produce substantial results. In circumstances where apparel workers have protested the violation of their rights, priority hiring schemes have a poor track record in Central America of producing jobs for substantial numbers of workers. Employers in the apparel sector tend to be highly motivated to avoid hiring workers they believe may be "trouble-makers."

In order for a priority hiring program to have a meaningful chance of success, it must involve concrete commitments from the participating factories, a high degree of transparency, and close coordination with the leadership of the affected workers. To our knowledge, none of these elements are part of Nike's announced priority hiring effort.

Priority hiring could be of real value to the Hugger and Vision Tex workers, but this requires a program that is concrete, transparent, and participatory. Moreover, priority hiring should be carried out in combination with steps to ensure payment of the outstanding severance – not as a substitute for paying workers what they are legally owed.

Recommendations

To date, the steps Nike has proposed to address the violations at Hugger and Vision Tex are clearly inadequate.

The WRC's original recommendation for remedial action stands: that Nike use its influence over its contractors and licensee to persuade them to make the workers whole. Efforts to assist workers in finding employment through priority hiring should be *in addition* to efforts to ensure that the workers are paid.

In light of the newly-identified violations related to legally mandated health benefits, the WRC also recommends that Nike:

- Take steps necessary to ensure that workers receive access to comprehensive medical care for a period at least as long as the period during which they were unlawfully denied such care, and preferably for a longer period. Workers should be provided with care either through IHSS, private establishments, or a temporary clinic created specifically to serve the Vision Tex and Hugger worker populations.
- Take steps necessary to ensure that workers are reimbursed for any expenses they incurred for medical treatments which would have been covered by IHSS had the factories complied with the law.
- Engage in good faith dialogue with former Hugger and Vision Tex workers

and the Central General de Trabajadores (CGT), which is supporting the workers, on any and all steps to remediate the code of conduct violations that the WRC has documented. It is not reasonable for Nike to make its participation in such dialogue contingent on the willingness of the workers to refrain from discussing the issue of the severance they are legally owed.

[1] Legislative Degree No. 140; Regulation of the Application of Social Security Law, Decree No. 193-1971

Article 9 of the Regulation of the Preventative Measures of Workplace Accidents and Work-Related Illness.

[2] WRC Factory Case Summary re Estofel (Guatemala), April 1, 2009. Also, see Fair Labor Association, Summary Report: Third Party Complaint Regarding Estofel S.A., Guatemala , March 25, 2009.