



2011

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Maui Jim, Inc.
COUNTRY: China
FACTORY CODE: 12200151329J
MONITOR: Openview Service, Ltd.
AUDIT DATE: November 10, 2011
PRODUCTS: Glasses Boxes
PROCESSES: Injection, Punching, Printing,
Cutting, Sewing
NUMBER OF WORKERS: 240

FLA Comment: This report was submitted with a corresponding corrective action plan to the FLA and was reviewed by FLA staff. In an effort to improve the effectiveness of remediation, the FLA has provided feedback and recommendations to the company, however the recommendations have not been agreed or incorporated by the company. The report is posted in its current state and is considered finalized. Updates on the progress of the corrective action will be posted when received by the company.



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Wages, Benefits and Overtime Compensation: False Payroll Records

WBOT.19 Employers shall not use hidden or multiple payroll records in order to hide overtime, to falsely demonstrate hourly wages, or for any other fraudulent reason. Payroll records maintained shall be authentic and accurate. (P)

Noncompliance

Explanation: Management only provided payrolls for the period from April - June 2011, rather than full payrolls for the past 12 months. They stated it was not convenient to provide payrolls of the other months (October 2010 - March 2011, July - September 2011) for auditors to review.

Plan Of Action: Our VP of Purchasing will continue to work with our third-party suppliers to ensure that all records and documentation is available and accessible for auditors (both internal and external).

Deadline Date: 07/31/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:



Wages, Benefits and Overtime Compensation: Worker Wage Awareness

WBOT.22 Employers shall make every reasonable effort to ensure workers understand the wages, including the calculation of wages, incentives systems, benefits and bonuses they are entitled to in a factory and under applicable laws. To this end, employers shall communicate orally and in writing to all workers all relevant information in the local language or language(s) spoken by the workers, if different from the local language. (P)

Noncompliance

Explanation: About 50% of interviewed workers were unaware of factory policies about maternity, sick, marriage and funeral leaves, although factory had provided related policies and procedures for those leaves.

Source: worker interviews

Plan Of Action: Our VP of Purchasing and our third party suppliers will work with factory management to ensure workers are educated on important company policies that might affect the worker benefits.

Deadline Date: 07/31/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Freedom of Association: Right to Freely Associate

FOA.2 Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers. (S)

Noncompliance

Explanation: [FLA Comment:](#) The Chinese constitution guarantees Freedom of Association (FOA); however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union - the All China Federation of Trade Unions (ACFTU). According to the ILO, many provisions of the Trade Union Act are contrary to the fundamental principles of FOA, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. However, the government has introduced new regulations that could improve the functioning of the labor relations mechanisms. The Amended Trade Union Act of Oct. 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. Trade unions also have an enhanced role in dispute resolution. In Dec. 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.

[Monitor's Comment:](#) Management and worker interviews indicated that there was no independent trade union or worker representatives in the factory.

Plan Of Action: We will continue to follow the laws in each country we purchase supplies from.

Deadline Date:

Supplier CAP:



Supplier
CAP Date:

Action
Taken:

Plan **No**
Complete:

Plan
Complete
Date:

Harassment or Abuse: Discipline/Review of Disciplinary Action

H&A.3 The disciplinary system shall include possibilities for workers to have disciplinary action imposed on them reviewed by someone at a higher managerial position than the manager who imposed the disciplinary action. In addition, such a system shall include the ability of a worker to appeal and/or question any disciplinary action against him or her and/or have a third party of his or her choice present when the disciplinary action is being imposed. (P)

Noncompliance

Explanation: There was no policy for the following:

- a) For workers to appeal and/or question any disciplinary action against them
- b) For workers to have a third party of their choice present when the disciplinary action was imposed
- c) Providing the possibility for worker to appeal to a higher managerial position than manager who imposed disciplinary action.

Source: factory rules, worker interviews



Plan Of Action: Our VP of Purchasing and third party suppliers will work with factory management to help them realize the importance of mediators and worker advocates (those being a higher-level manager or someone in the human resource function). This may take more time to help implement as it goes against the cultural norms there.

Deadline Date: 10/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:



Harassment or Abuse: Discipline/Worker Awareness and Participation of Workers

H&A.6 Workers must be informed when a disciplinary procedure has been initiated against them. Workers have the right to participate and be heard in any disciplinary procedure against them. Employers shall maintain written records of all disciplinary actions taken. Workers must sign all written records of disciplinary action against them. Such records must be maintained in the worker's personnel file. (P)

Noncompliance

Explanation: Disciplinary action records not signed by relevant workers who broke factory rules.

Sources: disciplinary action record review, worker interviews

Plan Of Action: Our VP of Purchasing and third party supplier will work with factory management and front-line supervisors to build up consistent disciplinary practices such as signing off on the disciplinary action for record management purposes.

Deadline Date: 10/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Harassment or Abuse: Discipline/Monetary Fines and Penalties

H&A.8 Employers shall not use monetary fines and penalties as a means to maintain labor discipline, including for poor performance or for violating company rules, regulations, and policies. (S)

Noncompliance

Explanation: Employees would be fined RMB 5-300 for violation against factory rules, had wages deducted for 3 days for 1 day of absence without permission. For example, 1 sewing worker was fined RMB 100 in May 2011 because they broke factory rules.

Sources: factory rules, disciplinary record review Legal reference: Article 50 of China Labor Law

Plan Of Action: We will work with the factory management to help them understand that through a consistent and fair disciplinary process, workers respond better than through disciplinary measures such as taking away pay, etc...This is one item that will also take longer to reform and we can hopefully build up a stronger collaboration with the factory by helping them with this process.

Deadline Date: 11/30/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:



Code Awareness:

GEN.1 Establish and articulate clear, written workplace standards. Formally convey those standards to Company factories as well as to licensees, contractors and suppliers.

Noncompliance

Explanation: Maui Jim, Inc. did not provide its code of conduct to the factory.

Sources: on-site observation, management interviews

Plan Of Action: We provided our code of conduct to the factory sales representative back with our initial supplier agreement back in September/October of 2010. This means that there was a lapse in communication between the sales office in Taiwan and the factory in mainland China. We will continue to work with our third party supplier and sales office to ensure the documents we are sending can be delivered to the factory.

Deadline Date: 07/31/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Code Awareness:

GEN.2 Ensure that all Company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis.

Noncompliance

Explanation: The factory neither posted Maui Jim, Inc.'s Code of Conduct in the factory, nor orally informed workers of the code of conduct.

Sources: on-site observation, worker interviews

Plan Of Action: We will work to ensure that the factory both receives the code of conduct, and posts it up at their facility. We have just opened up a Maui Jim subsidiary in Hong Kong, and our Operations Manager speaks both Cantonese and Mandarin fluently, so we will ask her to translate the code so that the factory management is not burdened with this responsibility.

Deadline Date: 07/31/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Code Awareness:

GEN.3 Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable Company employees and employees of contractors and suppliers to report to the Company on noncompliance with the workplace standards, with security that they shall not be punished or prejudiced for doing so.

Noncompliance

Explanation: Maui Jim, Inc. did not provide a confidential noncompliance reporting mechanism for factory workers to contact the company directly.

Sources: on-site observation, employee interviews

Plan Of Action: We will work with the third party supplier to try and get factory management to develop a confidential reporting mechanism to our Hong Kong office, now that we have employees and they can roughly speak the same language.

Deadline Date: 10/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Health and Safety: Permits and Certificates

H&S.8 The employer shall at all times be in possession of all legally required and valid permits and certificates related to health and safety issues, such as those related to the purchase and storage of chemicals, fire safety inspections, inspection of machinery, and (chemical) waste disposal. (P)

Noncompliance

- Explanation:**
1. Factory did not obtain Fire Safety Inspection Certificate and Building Construction Safety Certificate for one 1-story temporary raw material warehouse with an area of about 1,500 square meters.
 2. Annual inspection reports for 3 elevators expired April 30, 2011.
 3. Elevator operators did not obtain Operation Permit from local authority.
 4. Factory did not obtain indoor air quality test report for silk screen printing workshop.

Sources: document review, management interviews

Legal references: Article 13 of China Fire Prevention Law; Article 61 of China Construction Law; Article 21 of Management Regulation on Safety Training and Assessment for Special Operator; and Article 24 of China Law on Prevention and Control of Occupational Diseases

Plan Of Action: Our third party supplier has already worked with factory management to resolve a number of the safety issues that we were previously having, and the next step will be ensuring all licenses are obtained at the time they are due. We will continue to work with them on this.

Deadline Date: 10/01/2012

Supplier CAP:



Supplier
CAP Date:

Action
Taken:

Plan **No**
Complete:

Plan
Complete
Date:

Health and Safety: Evacuation Requirements and Procedure

H&S.9 All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, the installation and maintenance of an employee alarm and emergency lighting systems, ensuring aisles/exits are not blocked and that workers are not blocked within their workstations, employee education, evacuation procedures, etc.) shall be complied with. Workers shall be trained in evacuation procedures. Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually. (S)

Noncompliance

Explanation: 1.The factory did not conduct evacuation drills in the past year.

2. On-site observation found that some combustible raw materials stored in the stairwells of 2 out of 4 staircases in the factory.

Sources: document review; worker and management interviews

Legal references: Article 16 of China Fire Prevention Law; Article 40 of Fire Prevention Regulation for Government offices, Organizations and Enterprises; Article 7.4.1 of Code for Design of Building Fire Protection and Prevention (GB50016-2006).



Plan Of Action: We will work with factory management to stop all safety issues immediately and continue to push for evacuation drills throughout the year--focus on educating management that this will benefit them in the long run.

Deadline Date: 05/31/2012

Supplier CAP:

Supplier CAP Date: 02/01/2012

Action Taken: 2. Materials are not stored in stairwell. Starting from February 1, 2012.

Plan Complete: No

Plan Complete Date:

Health and Safety: Safety Equipment and First Aid Training

H&S.10 All safety and medical equipment (such as fire fighting equipment, first aid kits, etc.) shall be available in sufficient numbers throughout the factory, maintained and stocked as prescribed and easily accessible to workers. A sufficient number of workers shall be trained in first aid and fire fighting techniques. (S)

Noncompliance

Explanation: 1. 9 fire extinguishers were placed directly on the floors in the workshops and warehouses, not mounted on hangers, brackets or cased in cabinets.

2. The glass of 3 out of 28 hydrants was broken in the cutting and sewing workshops. This violates the Article 5.1.3 of the Code for Design of Extinguisher Distribution in Buildings and the Article 16 of the China Fire Prevention Law.

Plan Of Action: Our third party suppliers will continue to work with factory management to ensure safety procedures are being met--they will hang the fire extinguishers for proper access and to reduce blocking the walkway. They will also work to ensure the broken glass is replaced for future use.

Deadline Date: 07/31/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Health and Safety: Personal Protective Equipment

H&S.11 Workers shall be provided with effective and all necessary personal protective equipment (such as gloves, eye protection, hearing protection, respiratory protection, etc.) to prevent unsafe exposure (such as inhalation or contact with solvent vapors, noise, dust, etc.) to health and safety hazards, including medical waste. (S)

Noncompliance

Explanation: Electrical scissor operators not wearing metal mesh gloves; silk screen printing workers not wearing gloves or masks with active carbon filters during work.

Source: on-site observation
Legal references: Article 37 of Law of PRC on Production Safety; Article 20 of Law of PRC on Prevention and Control of Occupational Diseases

Plan Of Action: We will work to enhance all safety measure as soon as possible. We will work with factory management to help them understand that by providing the proper safety equipment and clothing up front, they will reduce accidents in the workplace and turnaround time in the long run.

Deadline Date: 03/30/2012

Supplier CAP:

Supplier CAP Date:

Action Taken: Silk screen workers wear masks and gloves. Start from February 1, 2012. Electric scissor operators wear metal mesh gloves. Starting from March 1, 2012.

Plan Complete: No

Plan Complete Date: 03/01/2012

Health and Safety: Chemical Management and Training

H&S.13 All chemicals and hazardous substances shall be properly labeled and stored in accordance with applicable laws. Labels shall be placed in the local language and the language(s) spoken by workers, if different from the local language. Workers shall receive training, appropriate to their job responsibilities, concerning the hazards, risks and the safe use of chemicals and other hazardous substances. (S)

Noncompliance

Explanation: 1. Hazardous waste, such as empty chemical containers and oily rags, collected by agency that was not qualified by local Environment Protection Bureau.

2. No secondary containment system available for chemicals in workshops and chemical warehouse.

Sources: 1) document review, management interviews; 2) on-site observation

Legal references: Article 57 of Law of PRC on Prevention and Control of Solid Waste Pollution; Article 16 of Regulations on Safety Administration of Hazardous Chemicals
Root cause: Factory lacked effective chemical management system.

Plan Of Action: We will work with factory management to stop all safety issues immediately and educate front-line supervisors on proper waste management procedures for the safety of their workers and also for fire safety, etc.

Deadline Date: 05/31/2012

Supplier CAP:

Supplier CAP Date:

Action Taken: Chemicals stored in the correct storage facility with proper containment. Starting from February 1, 2012.

Plan Complete: No

Plan Complete Date: 02/01/2012

Health and Safety: Material Safety Data Sheets/Worker Access and Awareness

H&S.14 Material Safety Data Sheets (MSDS) for all chemicals used in the factory must be available at the usage and storage sites of the chemicals, in the local language and the language(s) spoken by workers, if different from the local language. Workers shall have free access to MSDS. (P)

Noncompliance

Explanation: No MSDS available in places where chemicals were being used and stored.

Source: on-site observation Legal reference: Article 27 of Regulations on Safety in Workplaces Where Chemicals Are Used

Plan Of Action: We will educate front-line supervisors on proper waste management procedures for the safety of their workers and also for fire safety, etc...This includes educating the workers on what types of chemicals they are working with and what potential hazards there could be if mixing the wrong chemicals, etc...

Deadline Date: 10/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Health and Safety: Ventilation/Electrical/Facility Installation and Maintenance

H&S.17 All necessary ventilation, plumbing, electrical, noise and lighting services shall be installed and maintained to conform to applicable laws and in such a manner as to prevent or minimize hazardous conditions to workers in the facility. (S)

Noncompliance

Explanation: 2 electrical switches were exposed without safety covers in cutting workshop.

Source: on-site observation

Legal reference: Article 4.4 of General Guide for Electrical Safety (GB/T13869-2008)

Plan Of Action: We will work with factory management to stop all safety issues immediately and alleviate any safety issues of the workers by putting safety covers on electrical switches in cutting workshop.

Deadline Date: 03/30/2012

Supplier CAP:

Supplier CAP Date:

Action Taken: All electrical switches have covers in workshop. Start from February 1, 2012.

Plan Complete: No

Plan Complete Date: 02/01/2012

Health and Safety: Machinery Maintenance and Worker Training

H&S.18 All production machinery, equipment and tools shall be regularly maintained and properly guarded. Workers shall receive training in the proper use and safe operation of machinery, equipment and tools they use. Employers shall ensure safety instructions are either displayed/posted near all machinery or are readily accessible to the workers. (S)

Noncompliance

Explanation: 1. 3 cutting machines installed with single-hand operation button instead of two-hand operation button.

2. No needle guards installed for all sewing machines.

Source: on-site observation

Legal reference: Article 6.1.6 of Code of Design of Manufacturing Equipment Safety and Hygiene

Plan Of Action: We will work with factory management to stop all safety issues immediately and alleviate any safety issues of the workers by installing two-hand operation button in the sewing room as well as needle guards on all sewing machine. Again, this is educating management that proper safety procedures will result in less turnover amongst employees and higher efficiencies.

Deadline Date: 03/30/2012

Supplier CAP:

Supplier CAP Date:

Action Taken: Starting from February 1, 2012: 1 button cutting machine changed to 2 buttons. All sewing machines installed needle guards.

Plan Complete: No

Plan Complete Date: 02/01/2012

Hours of Work: General Compliance Hours of Work

HOW.1 Employers shall comply with all local laws, regulations and procedures concerning hours of work, public holidays and leave. (S)

Noncompliance

Explanation: 1. Employees' OT hours sometimes exceeded maximum legal OT limit of 3 hours per day and 36 hours per month. Employees worked 3.5-5 OT hours per day on some regular work days. (Factory said there was no handwritten time record before November 2011). Payrolls from April - June 2011 showed that employees' OT was 40-96 hours per month.

2. Employees' weekly OT was sometimes over 60 hours. Employees worked 61-75 hours during week of October 31 - November 6, 2011.

Sources: production record review for past 12 months; handwritten daily work time sheet review from November 2011; payroll review from April - June 2011; worker interviews

Legal reference: Article 41 of China Labor Law Root cause: No effective procedure to control hours of work within legal requirements.

Plan Of Action: Work with factory management to ensure that all documents are available and accessible to auditors (both internal and external) by next year. Work to ensure that the hours are following all employment laws and that management can forecast production and staffing so that this doesn't happen in the future.

Deadline Date: 10/01/2012

Supplier CAP:

Supplier CAP Date:

**Action
Taken:**

Plan No
Complete:

**Plan
Complete
Date:**

Hours of Work: Rest Day

HOW.2 Workers shall be entitled to at least one day off in every seven-day period. If workers must work on a rest day, an alternative day off must be provided within that same seven-day period or immediately following the seven-day period. (P)

Noncompliance

Explanation: Factory did not guarantee employees at least 1 day off in every 7-day period during the past 12 months. Employees rest 1-3 days per month and worked consecutively from November 1-10, 2011. (Factory said there was no such handwritten time record before November 2011)

Sources: production record review for past 12 months; handwritten daily work time sheet review from November 2011 (found by auditors in workshops); worker interviews

Legal reference: Article 38 of China Labor Law Root cause: No effective production plan in factory to ensure workers could have 1 day off during peak season.

**Root Cause
Details:**

**Plan Of
Action:** Work with factory management to ensure that all documents are available and accessible to auditors (both internal and external) by next year. Work to ensure that the hours and time off are following all employment laws and that management can forecast production and staffing so that this doesn't happen in the future.



Deadline 10/01/2012
Date:

Supplier
CAP:

Responsible
Person:

Supplier
CAP Date:

Action
Taken:

Plan No
Complete:

Plan
Complete
Date:

Hours of Work: Time Recording System

HOW.6 Time worked by all workers, regardless of compensation system, shall be fully documented by time cards or other accurate and reliable recording systems such as electronic swipe cards. Employers are prohibited from maintaining multiple time-keeping systems and/or false records for any fraudulent reason, such as to falsely demonstrate working hours. Time records maintained shall be authentic and accurate. (P)

Noncompliance

Explanation: Factory did not provide any time records for auditors to review during audit. Auditors found some handwritten daily work time sheets of November 2011 in workshops. Management explained that the electronic time recording system was broken, and that there were no other handwritten time records before November 2011.

Plan Of Action: Work with factory management to ensure that time records are in place. If their electronic machine goes down, that there is some sort of time card management in the meantime while the electronic system is being fixed.

Deadline Date: 10/01/2012

Supplier CAP:

Supplier CAP Date:

Action Taken:

Plan Complete: No

Plan Complete Date:
