



2009

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Phillips-Van Heusen
Corporation
COUNTRY: Malaysia
FACTORY CODE: 100046405H
MONITOR: Kenan Institute
AUDIT DATE: February 12-13, 2009
PRODUCTS: T-Shirts
PROCESSES: Cutting, Sewing, Inspection,
Packing
NUMBER OF WORKERS: 147

FLA Comment: In April 2010, PVH reported to the FLA that it had exited the factory in April 2009 due to both business reasons and resistance of the factory to improve compliance issues. Earlier, PVH had informed the FLA that the factory had closed down in March 2009, shortly after the IEM was conducted in February 2009, but subsequently informed the FLA that as the PVH withdrawal was gradual, the factory had had the opportunity to identify new clients over a period of time to ensure continuity of business. The FLA understands that the factory remains in operation, although not supplying PVH or any other FLA-affiliated company. The noncompliances identified during the IEM and reported below were not addressed through a PVH corrective action plan.



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Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses

WBOT.5 Employers shall provide all legally mandated holidays, leave, benefits and bonuses, such as official holidays, annual leave, sick leave, severance payments and 13th month payments, to all eligible workers within legally defined time periods. In addition, all leave and bonuses shall be calculated correctly. (S)

Noncompliance

Explanation: The employees pay for the medical expenses if they are sick. The employment contracts for Myanmar and Vietnamese employees mention “medical treatment will be provided for free by the employer, except for self-inflicted injuries and sexually transmitted diseases.”

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Wages, Benefits and Overtime Compensation: Deposit of Legally Mandated Deductions

WBOT.13 All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc. The employer shall not hold over any of these funds from one pay period to the other unless the law specifies that deposits are to be made less frequently than pay periods (e.g., monthly deposits, weekly pay). If the law does not specify, then deposits shall be made before the next pay period in all cases. (S)

Noncompliance

Explanation: Levy was being deducted without government consent, which is deemed illegal.

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Wages, Benefits and Overtime Compensation: General Compliance Wages, Benefits and Overtime Compensation

WBOT.1 Employers shall comply with all local laws, regulations and procedures concerning the payment of wages and benefits, including overtime compensation. In any case where laws and the FLA Code are contradictory, the standard that provides the greatest protection for workers shall apply. Where provisions are lacking, employers shall take measures to reasonably accommodate matters concerning the payments of wages and benefits, including overtime compensation. (S)

Noncompliance

Explanation: [Payment records of Employees' Provident Fund \(EPF\), Social Security Organization \(SOCSO\) and Workmen's Insurance were not available for review.](#)

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Wages, Benefits and Overtime Compensation: Payment for All Hours Worked

WBOT.7 Workers shall be paid for all hours worked in a workweek. Calculation of hours worked must include all time that the employer allows or requires the worker to work. (S)

Noncompliance

Explanation: The employees were observed to be working during lunch break without overtime compensation.

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Wages, Benefits and Overtime Compensation: Voluntary Wage Deductions

WBOT.14 Voluntary wage deductions for savings clubs, loan payments, etc. can only be made with the express and written consent of workers and shall be documented in employee files. All such voluntary deductions shall be credited to proper accounts and funds shall not be held illegally or inappropriately by employers. (S)

Noncompliance

Explanation: The employee wages are paid through bank transfer without written consent as required by law.

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Forced Labor: Personal Worker Identification and Other Documents

F.15 Workers shall retain possession or control of their passports, identity papers, travel documents or any other personal legal documents. Employers shall not retain any such documents to restrict workers' access to them for any reason whatsoever, including in order to ensure that workers shall remain in employment in the factory. (S) Employers may obtain copies of original documents for record-keeping purposes.

Noncompliance

Explanation: The original passports of foreign workers are kept by management. The foreign employees have to deposit a fee to take passport for their own personal purposes, such as for vacation.

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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)

Uncorroborated Evidence of Noncompliance

Explanation: The written employment contract for foreign workers mentioned that "the employee shall not participate in any political activities and activities of those related with trade union in Malaysia, or instigate others to commit such acts."

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Freedom of Association: Grievance Procedure

FOA.26 Employer shall have in place written grievance procedures that allow first an attempt to settle grievances directly between the worker and the immediate supervisor but that, where this is inappropriate or has failed, it is possible for the worker to have the grievance considered at one or more steps, depending on the nature of the grievance and the structure and size of the enterprise. Employers shall ensure that the grievance procedures and applicable rules are known to workers. (P)

Noncompliance

Explanation: [There is no confidential grievance procedure in place for employees in the factory.](#)

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Harassment or Abuse: Discipline/Written Disciplinary System

H&A.5 Employers shall maintain a system of written disciplinary rules, procedures and practices. Disciplinary rules, procedures and practices shall be clearly communicated to all workers. (P)

Noncompliance

Explanation: The Company Regulation is not written in the languages of all the foreign employees. It is available in English, Bahasa and Chinese while there are foreign workers from Nepal, Myanmar, Bangladesh and Vietnam as well.

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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: It was observed that there were certain deductions for violation of disciplinary rules like if/when the worker forgets to bring their ID card (RM 1) or to record attendance (RM 50).

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Non-Discrimination: Recruitment and Employment Practices (Job Advertisements, Job Descriptions, Evaluation Policies)

D.3 Recruitment and employment policies and practices, including job advertisements, job descriptions, and performance/job evaluation policies and practices shall be free from any type of discriminatory bias. (S)

Noncompliance

Explanation: There is a discriminatory statement found for foreign workers in their contract where it is stipulated that "the employee shall not engage in any romantic relationship with a Malaysian during the period of this contract."

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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 code of conduct training has not been conducted with the workers.](#)

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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: [There is no confidential reporting channel between the employees and the company.](#)

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Miscellaneous: Possible Homework

MISC.2 Possible Homework

Noncompliance

Explanation: Homework detected in foreign workers' dormitory; it was not compensated with overtime premium rate although it was conducted beyond normal working hours.

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Health and Safety: General Compliance Health and Safety

H&S.1 Employers shall comply with all local laws, regulations and procedures concerning health and safety. (S)

Noncompliance

Explanation: Health and Safety Committee is not yet established.

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Health and Safety: Document Maintenance/Worker Accessibility and Awareness

H&S.2 All documents required to be available to workers and management by applicable laws (such as health and safety policies, MSDS, etc.) shall be made available in the prescribed manner and in the local language or language(s) spoken by the workers if different from the local language. (P)

Noncompliance

Explanation: [Records of the latest fire and evacuation drill along with first aid training are not available for review.](#)

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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. Evacuation map blocked by rack observed near cutting area.
 2. Fire extinguisher blocked by table observed near the inspection area.
 3. All fire extinguishers installed had expired since March 18, 2008.

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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: All first aid kit boxes were observed to be locked in the factory and first aid kit boxes in the dormitory were found to be empty.

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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: Cutting operator was observed to be working without metal gloves.

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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: [Material Safety Data Sheet \(MSDS\) for Washout Solvent is not available.](#)

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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: [Ambient environmental test and ergonomic test are not yet conducted.](#)

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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: [The sewing machines were not installed with needle guards.](#)

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Health and Safety: Sanitation in Factory Facilities

H&S.22 All facilities including factory buildings, toilets, canteens, kitchens, and clinics, shall be kept clean and safe and be in compliance with all applicable laws, including relevant sanitation, medical and safety and health regulations. (S)

Noncompliance

Explanation: Male toilets had no gender sign; the door was broken and the toilets were unsanitary.

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