2010

Fair Labor Association
Independent External Monitoring Report

COMPANY: MBI, Inc.
COUNTRY: China
FACTORY CODE: 1800151150I
MONITOR: Verite
AUDIT DATE: September 9 – 10, 2010
PRODUCTS: Collectibles, Ornaments
PROCESSES: Molding, Painting
NUMBER OF WORKERS: 330

FLA Comment: This report was submitted to the FLA and the FLA affiliated company by the accredited independent external monitor. Despite deadline reminders and extensions for submission of a corrective action plan, the FLA has not received a plan to address the noncompliances raised in the report. Therefore, the report is posted in its current state and will be updated once a corrective action plan has been submitted to and reviewed by the FLA.

For an explanation on how to read this report, please visit the FLA website here.

FAIR LABOR ASSOCIATION

CONTENTS:

Wages, Benefits and Overtime Compensation: Minimum Wage 3
Wages, Benefits and Overtime Compensation: Premium/Overtime Compensation 4
Wages, Benefits and Overtime Compensation: Payroll Record Maintenance/Worker Acknowledgement 5
Forced Labor: Employment Terms/Prohibitions 6
Freedom of Association: Right to Freely Associate 7
Harassment or Abuse: General Compliance Harassment or Abuse 8
Harassment or Abuse: Discipline/Written Disciplinary System 9
Health and Safety: Safety Equipment and First Aid Training 10
Health and Safety: Personal Protective Equipment 11
Health and Safety: Material Safety Data Sheets/Worker Access and Awareness 12
Hours of Work: General Compliance Hours of Work 13
Hours of Work: Rest Day 14
Hours of Work: Time Recording System 15

FAIR LABOR ASSOCIATION

Wages, Benefits and Overtime Compensation: Minimum Wage

WBOT.2 Employers shall pay workers at least the legal minimum wage or the prevailing industry wage, whichever is higher. (S)

Noncompliance

Explanation: Regular wage paid to workers is lower than the legal standard. Local legal minimum wage is 710 RMB per month from May 2010, 580 RMB before that. From May 2010, workers were paid 24-28 RMB per day for a regular day's wage, which is lower than the legal standard of 32.64 RMB per day. Before May 2010, workers were paid 22-26 RMB per day for a regular day's wage, which is lower than the legal standard of 26.66 RMB per day. However, every worker was paid for bonuses and allowances from 150-280 RMB per month, besides regular and overtime wages. Auditor calculated the wages of 28 samples and found that, actually, the workers' final income is higher than the legal rate.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

Wages, Benefits and Overtime Compensation: Premium/Overtime Compensation

WBOT.10 The factory shall comply with all applicable laws, regulations and procedures governing the payment of premium rates for work on holidays, rest days, and overtime. (S)

Noncompliance

Explanation: Workers were underpaid for their overtime on weekends. Management and worker interviews and document review indicated that factory paid a lower rate than the legal standard for weekend overtime.

For daytime overtime on weekends, workers were paid (24/8 *2 =) 6 RMB per hour.

For nighttime overtime on weekends, workers were paid (710/21.75/8 *1.5 =) 6.12 RMB per hour.

According to minimum wage standards, the lowest legal overtime wage for weekends should be (710/21.75/8 *2 =) 8.16 RMB per hour.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

Wages, Benefits and Overtime Compensation: Payroll Record Maintenance/Worker Acknowledgement

WBOT.20 All compensation records shall be maintained accurately and shall be acknowledged by the worker as accurate. (P)

Noncompliance

Explanation: Factory payroll document does not match the pay slip provided to workers. Workers were engaged in social insurance and needed to have 93 RMB per month deducted from their wages. This deduction was not on the payroll, but showed on the pay slip; thusly, the total income on factory payroll sheet is 93 RMB higher than total income on worker's pay slip.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

Forced Labor: Employment Terms/Prohibitions

F.4 There can be no employment terms (including in contracts or any other instruments or in any formal or informal recruitment arrangements) which: specify that employees can be confined or be subjected to restrictions on freedom of movement; allow employers to hold wages already earned; provide for penalties resulting in paying back wages already earned; or in any way punish workers for terminating employment. (P)

Noncompliance

Explanation: Factory signs 1 year contracts with workers with a 1 month probation period; however, the items of probation wages and working position are not defined in the contract.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

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.*

Factory has not established legally recognized trade union. Factory has set up an internal Welfare Committee, with a total of 7 management personnel assigned as representatives, without an election. Committee has not held meetings to discuss problems relevant to workers and working conditions, they only organize some entertainment activities on holidays.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

Harassment or Abuse: General Compliance Harassment or Abuse

H&A.1 Employers shall comply with all local laws, regulations and procedures concerning discipline, violence, harassment and abuse. (S)

Noncompliance

Explanation: Factory has not established a written procedure on anti-harassment and abuse. However, factory has set up a suggestion box in workshop; workers can report H&A events using this box. Management and worker interviews indicated that they are not aware of the anti-harassment and abuse policies.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

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: Discipline procedure does not provide workers with a way to reply to, challenge or appeal discipline actions taken.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

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: On-site inspection found that the factory does not install emergency lights on electronic switch panel and in generator room.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

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: On-site inspection found that the factory uses paint oils, polywater, plaster, etc. According to these chemicals' MSDS, personnel handling these chemicals need protection for their eyes, skin, hands and breathing; however, currently factory only provides respirators to workers exposed to these hazardous materials. Worker interviews confirmed that the facility only provides respirators to workers who handle these chemicals. Management reported that they didn't know that these workers needed more protective equipment other than the respirator.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

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: On-site inspection found EP330 host and EP330 hardening agent, but the corresponding MSDS were not kept at the factory. Workers interviewed reported that they sometimes use these chemicals. Management reported that they will contact their supplier to obtain a copy of MSDS immediately.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

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: Auditor cannot verify workers' weekly working hours before August 2010, because of the inaccurate manual attendance records described in 2.1.8. Fingerprint time record of August 2010 indicates that nearly all workers' weekly working hours exceed 60 hours. The most busy factory department is color painting, with about 110 workers in total. Their overtime hours are more than workers in other departments, with a maximum of 77 hours.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

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: Workers worked more than 7 days consecutively in each month. Manual attendance record before August 2010 indicates that nearly all workers worked more than 7 days consecutively at least once every month. Maximum number of consecutive working days is 23. On the average, workers were given 2 or 3 rest days a month. Fingerprint time record of August 2010 indicates that nearly all workers worked more than 6 days consecutively at least once this month. The most busy factory department is color painting, with around 110 workers total. Their number of consecutive working days is more than that of other departments, with a maximum of 30 consecutive days.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:

FAIR LABOR ASSOCIATION

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: Overtime hours are not accurately tracked before August 2010. Factory used manual records and electronic records before August 2010 and began to use fingerprint time recording system on a trial basis as of August 2010. Manual records indicate the start and finish time of workers' regular work day, as well as overtime. However, the finishing time of overtime on these records are not the accurate times that the worker finished work and left the factory. Instead of recording the finish time, the factory estimated time is according to the daily production target. If worker finishes the target before the estimated time, they can leave earlier; line leader will still record their overtime as ending by the estimated time. Therefore, the manual records cannot reveal the workers accurate overtime hours. Electronic records are missing the ending time of morning work. Fingerprint time record in August is accurate, with the exact time of the end of overtime punched by workers themselves.

Plan Of Action:

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date: