



2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: American Eagle Outfitters, Inc.;
Liz Claiborne, Inc.

COUNTRY: China

FACTORY CODE: 0502151169I

MONITOR: Social Compliance Service Asia, Ltd.

AUDIT DATE: October 21 – 22, 2010

PRODUCTS: Leather Belts, Purses, Bags, Shoes

PROCESSES: Cutting, Sewing, Painting,
Checking, Packing

NUMBER OF WORKERS: 1700



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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: 1) Factory did not compensate for all annual leave that could not be provided to workers upon their resignation. For example, a resigned worker, [Worker name], who was employed for 3 years (October 11, 2007 - September 30, 2010) was provided with only 5 days of annual leave during employment; the remaining 4 days were not compensated upon resignation.

2) In September 2010, all workers provided with injury, medical and maternity insurances. 778 workers out of 2021 not provided with pension and unemployment insurances.

Sources: 1) payroll records, final payment for workers, management interview, employee record review; 2) payroll records; worker and management interviews; social insurance payment receipts

Law References: 1) Article 10 of Implementation Measures for Employee Paid Annual Leave; 2) Article 73 of PRC Labor Law

Plan Of Action:

Immediate action:

1) Pay resigned employees for the sufficient number of annual leave days from now on.

Continuous corrective action:

1) Conduct internal inspections to ensure annual leave days are calculated correctly for resigned employees.

Insufficient coverage of social insurance:

1) Facility will increase coverage to 75% of employees by end of June 2011;

2) Facility will increase coverage to 85% of employees by end of 2011 and will then determine next stages.

Deadline Date: 06/30/2011

**Action
Taken:**

April 1, 2011:

1) Facility established and provided policy on how annual leave for resigned employees is compensated; policy has been announced to employees. Also, training on how to calculate annual leave for resigned employees provided to the HR and Finance departments, along with attendee lists.

2) Facility management responded that social insurances provided to 62% of employees and coverage will increase by the due date.

June 3, 2011: A joint follow-up visit with Liz Claiborne International Ltd (LCI) was conducted June 2, 2011. Auditors found that:

1) Calculation for annual leave of resigned employees not following legal requirements. Payment records of resigned employees indicate facility uses week days as the calculation basis, instead of 21.75 days. Facility established procedure on annual leave calculation for resigned employees and HR staff were trained on how to do the calculation March 14, 2011. Payment records indicate that finance manager of facility will recheck if payments made correctly or not.

2) Social insurance receipts from May indicate that coverage of pension and unemployment insurances is at 62% (1269 employees for retirement insurances, 1269 employees for unemployment insurances. Facility has around 2050 employees in total in May). Facility management commits to increase coverage of pension and unemployment for up to 85% of employees by end of 2011 and will then determine for next stages.

**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: [Monitor's Note](#): None of the workers are members of ACFTU at factory.

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.

Plan Of Action:

- 1) Facility has an Employee Welfare Committee. As a first step, facility will elect employee representatives and have regular meetings. In the meantime, facility will consult with ACFTU for registration.
- 2) Facility will see how it works and fits with facility and then decide for next steps.

Deadline Date: 12/31/2011



Action Taken: [April 1, 2011](#): Facility management has asked local government for permission to establish a union in the facility in February 2011 and will wait for local government's advice.

[June 3, 2011](#): A joint follow-up visit with LCI conducted June 2, 2011. Auditors found that:

1) Facility is under the process of registering ACFTU with local government and is waiting for government's approval.

2) Facility has an Employee Welfare Committee but there is no: a) employee representative; b) procedure of election; and c) trainings for existing employees and new employees on functions of Employee Welfare Committee.

Plan Complete: No

Plan Complete Date:

Non-Discrimination: Sex-Based Wage Discrimination

D.4 There shall be no differences in remuneration for men and women workers for work of equal value. Remuneration (wages, compensation) includes the basic minimum or prevailing industry wage and any additional payments to be made directly or indirectly, whether in cash or in-kind, by the employer to the worker and arising out of the workers' employment. Such additional payments include wage differentials or increments based on seniority or marital status, cost of living allowances, housing or residential allowances, family allowances, benefits in-kind such as the allotment and cleaning of work clothes or safety equipment, and social security benefits. (S)

Noncompliance

Explanation: Recruitment notice posted in front of main gate revealed there is an age limit and specific requirements on gender; for example, the storekeeper post is only for males between the ages of 18 to 28.

Sources: recruitment notice, management interview

Law Reference: PRC Labor Law, Article 12

**Plan Of
Action:**

Immediate action:

1) Revise recruitment notice and discontinue recruitment limits on gender and ages.

Continuous corrective action:

1) Establish non-discrimination policy.

2) Conduct internal inspection on recruitment practices on a regular basis.

**Deadline
Date:** 06/30/2011



Action Taken: [April 1, 2011](#): Revised recruitment notices provided and signs of discrimination not observed. Facility has established a non-discrimination policy; it has been communicated to related staff that is responsible for recruiting employees, i.e., HR department.

[June 3, 2011](#): Joint follow-up visit with LCI conducted June 2, 2011. Auditors found:

1) During factory tour, age preferences (above 18 years old) still revealed in recruitment notices posted on facility gate.

2) Facility does not conduct internal inspections on recruitment practices on a regular basis.

3) Facility established procedure of non-discrimination and recruitment procedures to address discrimination issues. The staff related to recruitment trained on non-discrimination policy March 10, 2011.

Plan Complete: No

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) Several aisles in sewing workshops found blocked by machinery and semi-finished products.

2) Around 10 workers in packing section on 3rd floor of Building A blocked inside of workstations by packed products, without any aisle to escape in case of emergency.

3) At least 10 fire extinguishers and 2 fire hydrants found blocked in workshops and warehouse.

4) At least 2 fire extinguishers in workshops placed on floor and not properly installed.

5) Warehouse areas not equipped with a sprinkler system.

Source: factory tour

Law References: 1, 2) Article 21 of Fire Prevention Law of PRC; 3) Article 28 of Fire Prevention Law of PRC; 4) 5. 3 of Design Standard for Emplacement of Fire Extinguishers in Buildings (GBJ40-90); 5) Article 11.4.1 of Code for Design of Building Fire Protection and Prevention (GB50016-2006)

**Plan Of
Action:**

Immediate action:

1) Correct all health and safety concerns.

Continuous corrective action:

1) Assign responsible persons and conduct internal health and safety inspections on a regular basis; document the findings and corrective action plan.

2) Train line supervisors on fire safety management.

**Deadline
Date:** 08/31/2011



Supplier CAP: [June 3, 2011](#): Facility management replied that it will be challenging for facility to install overhead sprinklers, since device is sensitive and small amounts of smoke or error signals may cause device to function and get all materials in warehouse wet.

Supplier CAP Date:

Action Taken: [April 1, 2011](#): Several photos provided by facility to indicate improvements on health and safety issues, except for sprinkler system in warehouse areas. Training records of chemical and machine safety for all employees provided.

[June 3, 2011](#): Joint follow-up visit with LCI conducted June 2, 2011. During factory tour, auditors found:

- 1) 1 aisle on 1st and 3rd floors of Building B partially blocked.
- 2) Warehouse areas are not installed with a sprinkler system.
- 3) Internal inspections on overall health and safety conditions not conducted.
- 4) Fire safety management training on supervisors not conducted.
- 5) Fire extinguishers and fire hydrants free of obstacles and mounted. Also, fire extinguishers are checked on monthly basis.

Note: Article 11.4.1 of Code for Design of Building Fire Protection and Prevention (GB50016-2006) is the law reference which auditor cited for missing overhead sprinklers. However, after checking this law reference, this is a requirement for facility to install automatic fire alarm system.

Plan Complete: No

Plan Complete Date:

Health and Safety: Use of Personal Protective Equipment

H&S.12 Workers shall not incur any costs related to the normal and regular provision and maintenance of personal protective equipment. (P)

Noncompliance

Explanation: Observed worker doing spray painting was not wearing protective mask while working.

Source: factory tour

Law Reference: Article 75 of Factory Safety and Sanitary Regulations

**Plan Of
Action:**

Immediate action:

1) Correct all health and safety concerns.

Continuous corrective action:

1) Educate employees on hazards of chemicals and dangers of machines and enforce use of personal protective equipment (PPE).

2) Conduct internal health and safety inspections on a regular basis, document findings and corrective action plan.

**Deadline
Date:**

06/30/2011

**Action
Taken:**

April 1, 2011: Photo provided to indicate that employees are provided with PPE. Trainings on chemical hazards provided to all employees.

June 3, 2011: Joint follow-up visit with LCI conducted June 2, 2011. Auditors found that:

1) Employees who use chemicals wore PPE such as masks, goggles, and gloves.

2) Facility provided trainings on chemical hazards and PPE usage to these employees March 18, 2011 and these training records are documented.

**Plan
Complete:**

Yes

**Plan
Complete
Date:**

06/03/2011

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: At least 10 buckets of chemicals in workshops not equipped with a secondary container.

Source: factory tour

Law Reference: Article 16 of Regulation for Safety of Dangerous Chemical

**Plan Of
Action:**

Immediate action:

1) Correct all health and safety concerns.

Continuous corrective action:

1) Educate employees on hazards of chemicals and dangers of machines and enforce use of PPE.

2) Conduct internal health and safety inspections on a regular basis, document findings and corrective action plan.

**Deadline
Date:** 08/31/2011

**Action
Taken:** April 1, 2011: Photo has been provided to indicate that secondary containments provided for chemicals.

June 3, 2011: Joint follow-up visit with LCI conducted June 2, 2011. During factory tour, auditors found that:

1) Most chemical containers provided with secondary containment. However, some chemicals on 2nd floor of Buildings A and B missing secondary containment. Facility management explained that shipping and receiving material staff does not follow facility's requirements and places chemicals in secondary containment. Will enhance trainings for these staff members to address this issue.

2) Internal inspections on overall health and safety conditions not conducted.

Plan No
Complete:

Plan
Complete
Date:

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) At least 3 of the ring pressing machines in workshops not equipped with proper protective finger guards.

2) At least 2 of the heat blowers in workshops not equipped with protective guards.

Source: 1, 2) factory tour

Law References: 1) Article 6.1.2 of General Rules For Designing the Production Facilities in Accordance with Safety and Health Requirements; 2) Article 58 of Factory Safety and Sanitary Regulations

Plan Of Action: Immediate action:

1) Correct all health and safety concerns.

Continuous corrective action:

1) Educate employees on dangers of machines.

2) Conduct internal health and safety inspections on a regular basis, document findings and corrective action plan.

Deadline Date: 08/31/2011



Action Taken: [April 1, 2011](#): Photos provided to indicate that machines are installed with safety devices. In addition, training on machine safety was provided to all employees March 9, 2011.

[June 3, 2011](#): Joint follow-up visit with LCI conducted June 2, 2011. During factory tour, auditors found:

- 1) Ring-pressing machines equipped with protective finger equipment. However, ring-pressing machines' protective finger guards not working on 3rd floor of building B.
- 2) Inspections on overall health and safety conditions not conducted.
- 3) Facility trained employees on machine safety March 9, 2011.
- 4) Factory tour revealed that heat blowers are equipped with protective guards.

Plan Complete: No

Plan Complete Date:
