



2009

## FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

**COMPANY:** MBI, Inc.  
**COUNTRY:** China  
**FACTORY CODE:** 180015455H  
**MONITOR:** Openview Service Limited  
**AUDIT DATE:** November 23-24, 2009  
**PRODUCTS:** Logo Embroidery  
**PROCESSES:** Backing, embroidering,  
ultrasonic processing, final assembly,  
packing  
**NUMBER OF WORKERS:** 400

**FLA Comment:**

Though the Company was not manufacturing collegiate product at the time of the Independent External Monitoring (IEM) visit, the Company agreed to encourage the factory to remediate issues discovered during the course of the IEM.



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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. Based on the review of payrolls over the period from November 2008 to October 2009, it was found that the factory only paid 60% of basic wage (the same as minimum wage) for sick leave for workers who served in the factory less than 1 year, which was lower than 80% of the minimum wage as per required by local law. It violated Article 24 of Regulation for the Payment of Wages in Guangdong Province.

2. Based on the review of annual leave regulations and payrolls over the period from November 2008 to October 2009, it was found that the factory provided 14-day paid annual leave to workers who had served in the factory over 20 years, while legal regulation required 15-day paid annual leave for those workers. It violated Article 3, Regulations on Paid Annual Leave for Employees.

3. Based on the review of insurance receipts from August 2009 to October 2009, and information gathered from workers and management, it was found that the factory provided pension for 78, basic medical and maternity insurance for 1 out of all 361 employees and did not provide unemployment insurance for any employee. It violated Article 73 of China Labor Law.

**Plan Of Action:** The policy will be modified to pay 80% of the basic wage for sick leave to workers who have served in the factory less than 1 year.

2. The policy will be revised according to local labor law and will provide 15 days paid annual leave to employees over 20 years of service.

3. The Company provides social insurance, including work-related insurance (unemployment/maternity, etc) and basic medical coverage, in accordance with the requirements of the local and national government. All workers have medical insurance from the group life insurance; staff members who are local citizens have additional medical coverage at a higher amount as required by local law. Pension has been offered to all employees hired prior to 1/1/06 and will continue to be offered to groups of employee in a gradual manner until all employees have been offered pension benefits.

**Deadline Date:** 08/31/2010

Action  
Taken:

Plan Complete: No

Plan  
Complete  
Date:

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### 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:** Based on the review of time and payroll records for temporary workers in October and November 2009 and information gathered from workers and management, it was confirmed that overtime rate was same as normal hourly rate for 9 temporary workers working in the factory. It violated Article 44 of China Labor Law.

**Plan Of Action:** The policy will be revised. The Company will pay overtime wages to temporary workers at the same rate as with non-temporary workers.

**Deadline Date:** 09/15/2010

Action  
Taken:

Plan Complete: No

Plan  
Complete  
Date:

### **Forced Labor: Worker Ability to Terminate/Freedom of Movement**

F.13 Employers shall not utilize practices that restrict a workers' ability to terminate his or her employment or freedom of movement. Examples of such practices include, but are not limited to: (the threat of) physical or mental coercion; requiring deposits; imposing financial penalties; requiring recruitment fees; setting production targets or piece rates at such a level that workers need to work beyond normal working hours (excluding overtime) as set under the FLA Code in order to make the legal minimum wage or the prevailing industry wage; and denying and hampering access to, and renewal of, identity papers and/or work permits or any other personal legal (identification) documents. (S)

#### **Noncompliance**

**Explanation:** Based on the review of payroll records of resigned workers and information gathered from workers and management, it was confirmed that workers who quit the factory without submitting resignation applications 30 days in advance would be deducted the basic wage -RMB900- as penal sum to the factory. It violated Article 22, 23 and 25 of China Labor Contract law.

**Plan Of Action:** The policy will be revised. The Company will pay basic wages to employees who quit the factory without providing 30 days notices in advance. Employees who do not give notice will not be eligible for bonus payments and will be responsible for appropriate deductions related to dorms and messing.

**Deadline Date:** 04/30/2010

**Action Taken:** A draft policy is being developed. This policy will apply to all workers. The factory does not currently employ any temporary workers. Note: Bonus payments are payments over and above hourly wages which meet or exceed minimum wage requirements for all employees. Deductions for dorms and messing are taken out in compliance to labor law for a portion of dorm and messing expenses -if the employee is living in company dorms and receiving meals- the dorm and meals are subsidized by the company if an employee lives in company provided dorm the charge is just 30 RMB/month, meals if taken are charged at 1.5 RMB. Deductions from bonus payments are taken out for non compliance to work instructions or general policies and procedures and attendance or performance below standard.

**Plan Complete:** Yes

**Plan Complete Date:** 07/31/2010

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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)

#### **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.

**Plan Of Action:** The ACFTU, the All-China Federation of Trade Unions, is a government-recognized union that is regulated by the Trade Union Law of the People's Republic of China. The ACFTU is not an independent trade union organization. The factory does not have a trade union organization. The employees are not represented by a Union through a collective bargaining agreement and do not pay dues. The Company does not recognize or bargain with any Union on behalf of the employees. Employees provide input on issues including food, safety and welfare issues. The company has every intention to facilitate the rights of workers to associate on their behalf.



**Deadline** 07/31/2010

**Date:**

**Action**

**Taken:**

**Plan** No

**Complete:**

**Plan**

**Complete**

**Date:**

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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:** It was confirmed by factory walk through that there were age (18 to 28 years old) and gender (female) limitation in recruitment advertisement posted at the entrance of factory gate. It violated Article 12 of China Labor Law and Article 20 of Provisions on Employment Services and Employment Management.

**Plan Of Action:** It is the Company's policy to recruit, hire, train, promote, and in all ways provide fair treatment on the basis of merit without regard to race, color, creed, gender, religion, age, or other factors. The posting at the entrance to the factory has been removed, and age and gender limitations will not be included in advertisements or postings.

**Deadline** 02/01/2010

**Date:**

**Action** This is completed. The posting has been removed.

**Taken:**

Plan Yes  
Complete:

Plan 06/24/2010  
Complete  
Date:

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### Non-Discrimination: Medical Examination

D.11 Employers are allowed to require routine medical examination for fitness as a condition of recruitment or continued employment. Such examination shall, however, be strictly limited to assess general fitness, and not include testing for any disease or illness, such as HIV/AIDS, that does not have an immediate effect on a person's fitness and/or is not contagious. (P)

#### Noncompliance

**Explanation:** Based on the review of medical examination reports and information gathered from workers and management, it was confirmed that the yearly medical examination contained blood test for Hepatitis B. Although there was no actual case of discrimination regarding Hepatitis B carrier in the factory, but it was prohibited in China to include the Hepatitis B check as medical examination criteria. It violated Article 19 of Provisions on Employment Services and Employment Management.

**Plan Of Action:** The blood test for Hepatitis B will be eliminated from the annual physical. The next yearly medical examination is scheduled for July 2010.

**Deadline Date:** 07/01/2010

**Action Taken:** Annual physicals conducted in July will not include testing for Hepatitis B.

Plan No  
Complete:

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:** Interviews with management of the factory indicated that MBI did not provide Code of Conduct to be posted in the factory.

**Plan Of Action:** MBI maintains a consistent requirement for all factories to agree to FLA Code of Conduct compliance prior to commencing business with any factory. The posting of the Code of Conduct is a clear, simple and essential aspect of compliance efforts.

**Deadline Date:** 07/01/2010

**Action Taken:** The Code of Conduct has been posted.

**Plan Complete:** Yes

**Plan Complete Date:** 06/25/2010

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## 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. Based on review related records and interview with factory management, there were no Fire Safety Inspection Certificates and Building Structure Safety Inspection Certificates both for dormitory and production buildings. Factory management explained that since the building was set up more than 20 years ago, it is difficult for them to get the fire safety and structure safety certificate from the local government. It violated Article 13 of China Fire Prevention Law Article 61 of China Construction Law respectively.

2. Based on review related records and interview with factory management; it was found that there was no Food Hygiene Certificate for the canteen in the factory. It violated Article 29 and 34 of China Food Safety Law.

**Plan Of Action:** 1. The Company will work with the building owner to investigate obtaining fire safety inspection certificates for both the production and dormitory buildings.

2. The Company will request food hygiene certificates from the canteen supplier.

**Deadline Date:** 07/31/2010

**Action Taken:** The company is working with the building owner and the canteen supplier to remedy these issues.

**Plan Complete:** No

**Plan Complete Date:** 07/31/2010

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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. The maintenance room was under the stairwell on the first floor of production building. It violated Article 3.3.15 of Code of Fire Safety on Building Design (GB50016-2006).
  2. Materials and sundries were stored on the stairwells of the second and the third floors, and on the stairwell to the rooftop in production building. It violated Article 7.4.1 of Code of Fire Safety on Building Design (GB50016-2006).
  3. There was one temporary material warehouse located on the first floor in the 3-stories dormitory building. It violated Article 28 of China Fire Prevention Law.
  4. On-site observation found that there was no fire exit sign in the large finished products warehouse. It violated 16 of China Fire Prevention Law.

- Plan Of Action:**
1. The maintenance area under the stairwell on the first floor of the production building has been partitioned. The area is used for storage only and contains tools and parts. Flammables are not stored in this area.
  2. Materials have been removed from the stairwells on the second and third floors and from the stairwell to the rooftop in the production building.
  3. There are no production operations in the dormitory building; however, there is temporary material storage. The Company will attempt to locate alternate storage areas.
  4. Fire exit signs will be posted in the finished products warehouse.

**Deadline Date:** 07/31/2010

**Action Taken:** The company has relocated materials and will post fire signs as appropriate.

Plan Complete: No

Plan Complete Date: 07/31/2010

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### Health and Safety: Safety Equipment and First Aid Training

H&S.10 All safety and medical equipment (such as firefighting 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 observation found that there was no fire extinguisher in the small finished products warehouse. It violated Article 16 of China Fire Prevention Law.

**Plan Of Action:** Fire extinguishers will be added in the finished products warehouse. A routine inspection schedule will be set and maintained.

**Deadline Date:** 05/01/2010

**Action Taken:** Fire extinguishers have been added.

Plan Complete: Yes

Plan Complete Date: 04/30/2010

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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:** It was confirmed through factory walkthrough that all workers worked in the embroidery workshop with loud noise and did not wear earplugs. It violated Article 54 of China Labor Law.

**Plan Of Action:** Earplugs have been provided to each worker. Employees have signed to indicate that they received a pair of earplugs. Employees will be instructed to use them.

**Deadline Date:** 04/01/2010

**Action Taken:** Earplugs have been provided to each worker. Employees have signed to indicate that they received a pair of earplugs. Employees will be instructed to use them.

**Plan Complete:** Yes

**Plan Complete Date:** 06/01/2010

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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:** Materials Safety Data Sheet (MSDS) in English was just kept in the office but was not kept on site for the 3M 77 glue used in production. It violated Article 12 of Regulations on Safety in Workplaces Where Chemicals Are Used.

**Plan Of Action:** Material Safety Data Sheets will be available for all applicable materials. Material Safety Data Sheets will be translated into Chinese as needed. A notice will be posted in the workshop.

**Deadline Date:** 05/01/2010

**Action Taken:** MSDS have been made available to employees.

**Plan Complete:** Yes

**Plan Complete Date:** 04/30/2010

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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:** On-site observation found that the 2-hand operation function of two packing pressers was deactivated. It violated Article 6.1.2 of General rules of design on health and safety of production facility (GB5083-1999).

**Plan Of Action:** The 2-hand operation function of the packing pressers has been repaired.

**Deadline Date:** 02/01/2010

**Action Taken:** The 2-hand operation function of the packing pressers has been repaired.

**Plan Complete:** Yes

**Plan Complete Date:** 04/30/2010

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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:** On-site observation found that the floors of many production workshops were broken and damaged, especially on the second and third floors.

**Plan Of Action:** The Company will inspect the floors and determine appropriate repairs.

**Deadline Date:** 08/31/2010

**Action Taken:** Half the floor has been repaired thus far.

**Plan Complete:** No

**Plan Complete Date:**

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### Health and Safety: Sanitation in Dormitories

H&S.28 All dormitories shall be kept secure, clean and have safety provisions (such as fire extinguishers, first aid kits, unobstructed emergency exits, emergency lighting etc.). Emergency evacuation drills shall also be conducted at least annually. (S)

#### Noncompliance

**Explanation:** There was no evidence to prove that fire evacuation drill was conducted in the dormitory building in 2009. It violated Article 16 of China Fire Prevention Law.

**Plan Of Action:** A drill was conducted in the dormitory on December 24, 2010. Pictures were taken of the drill to ensure that the documentation was complete.

**Deadline Date:** 12/01/2009

**Action Taken:** Completed. The most recent drill has been documented.

**Plan Complete:** Yes

**Plan Complete Date:** 12/31/2009

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**Health and Safety: Other - Health and Safety**

Other

**Noncompliance**

**Explanation:** Based on review of records and information gathered from workers and management, it was found that no hearing test was provided for workers working in embroidery department. It violated Chapter 4 of Employee Hearing Protection Standards.

**Plan Of Action:** The Company will evaluate the need for hearing testing for workers in the embroidery department.

**Deadline Date:** 05/01/2010

**Action Taken:** Still under evaluation.

**Plan Complete:** No

**Plan Complete Date:**

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### Hours of Work: Overtime/Calculation Over Period Longer Than One Week

HOW.10. Employers are allowed to calculate normal hours of work as an average over a period of longer than one week where local laws, regulations and procedures provide for such a possibility but only when all formal and procedural requirements attached to such calculation (for instance, obtaining official permission from the relevant authorities or limits to the period during which such calculations can be made) are met. The basis for such calculation shall, however, remain at all times the lesser of 48 hours per week or legal limits on hours of work in the country of manufacture or, where such legal limits do not exist, the regular work week in such country. (S)

#### Noncompliance

**Explanation:** Based on the review of time records from November 2008 to October 2009 and information gathered from management, it was found that about 1% workers worked 66 hours in 1 week (more than 60 hours) in November and December 2008 and March to October 2009. It violated Article 41 of China Labor Law.

**Plan Of Action:** Company policy states that workers are not permitted to exceed 60 hours per week and can work a maximum of 80 hours of overtime per month. In addition, overtime is voluntary. Supervisors will be requested to more closely monitor overtime to prevent exceeding these limitations.

**Deadline Date:** 04/30/2010

**Action Taken:** Completed. Workers are not scheduled to work more than 60 hours per week. Supervisors monitor the assignment of any additional overtime hours to ensure that the workers do not exceed 60 hours per week. In addition, workers are not permitted to work more than 80 hours of overtime in any month. Overtime is verified by the accounting department.

**Plan Complete:** Yes

**Plan Complete Date:** 04/01/2010

