FACT FINDING INDEPENDENT INVESTIGATION
HONDURAS – NOVEMBER 10th – 14th 2008

I. Introduction

The Fair Labor Association (FLA) commissioned ALGI to perform an independent investigation of Jerzees de Honduras (JDH), a Russell facility. Russell Corporation is a subsidiary of Fruit of the Loom. The FLA requested ALGI to investigate allegations of noncompliance with international labor standards, national law and codes of conduct related to freedom of association. The allegations are related to the recent announcement by Russell Corporation of the programmed closure of the JDH factory, located in Honduras in the district of Choloma. Allegations also related to discrimination and hostile behavior against members of the union and members of the union federation.

According to these allegations:

1. There has been hostile behavior by JDH management towards the union such as:
   a) Hostility by JDH management directed towards union members or representatives of the union federation to which the local union is affiliated in their exercise of associational rights, for example by telling workers that the facility would close if they exercised such rights; also after the announcement of the closure of the plant, JDH management made statements that workers’ associational rights were the cause of the company’s decision;
   b) Circulation of an anti-union petition by a JDH supervisor within the factory;
   c) Involvement or connection between JDH management and alleged incidents of harassment from security guards in the industrial zone directed at any union member or representative of the union federation to which the local union is affiliated;

2. Russell's decision to shut down Jerzees de Honduras (JDH) is an attempt to interfere with employees’ associational rights and pursuit of a collective bargaining agreement (CBA).
ALGI was also requested to evaluate the following:

3. The collective bargaining agreement (CBA) between the company and the union and document the status of the negotiations;

4. Facility closure process, including implementation of Honduran law and the company’s retrenchment policy, as well as communication to workers and plans to assist displaced workers in securing alternative employment opportunities.

Jerzees de Honduras (JDH), a fleece facility operated by Russell, is located in the industrial park “ZIP INHDELVA” approximately 16 kilometers from San Pedro Sula. This industrial park houses domestic and international firms dedicated to the manufacturing of garments for export to the United States. The building where JDH operates is not owned by Russell/Fruit of the Loom but rented since its establishment, seven years ago. The previous contract has expired and at the present time, the lease is extended on a month-to-month basis.

JDH is dedicated to the manufacturing of fleece tops and bottoms. Its internal structure consists of 80 modules managed by 14 module supervisors. The facility works 44 hours a week, Monday to Friday from 7:00AM to 4:30PM with a 30 minute break. At the present time, facility’s production capacity is 13,000 dozens of tops and 17,000 dozens of bottoms per week.

JDH recognizes the union “Sindicato de Trabajadores de Jerzees de Honduras” (SITRAJERZEESH), which is affiliated with the “Central General de Trabajadores” (CGT) union federation, as the only workers association in the plant.

The assessment took place from November from 10th to the 14th, 2008 and was conducted by two ALGI assessors. All verbal communication was in Spanish, the official local language. An opening meeting took place on November 10th, 2008 at 9:00am. Present at the meeting were:

a) Mr. Werner Oberholzer, General Manager
b) Mr. Ricardo Trujillo, Director for International Human Resources
c) Mr. Jose Fernandez, Plant Manager
d) Mr. Edward Bardales, Director of Human Resources
e) Mrs. Nadia Morales, Human Resources Manager

The closing meeting took place on Thursday November 13th 2008. Besides Mr. Oberholzer,
Mr. Trujillo, Mr. Fernandez and Mr. Bardales, two corporate members of Fruit of the Loom attended this meeting: Mr. Tony Pelaski, Corporate Senior Vice President of Human Resources and Mr. Stan Blankenship, Corporate Director of Social Compliance.

II. Scope and Methodology

Prior to, and during the assessment, monitors gathered and reviewed website information related to all allegations made by the CGT against Jerzees de Honduras.

In order to gather information from all parties involved, the monitors met with four different groups of stakeholders: Jerzees de Honduras Management, the union Sindicato de Trabajadores de la Empresa Jerzees de Honduras, S.A. (SITRAJERZEESH), the Union federation CGT and officers of Honduras’ Ministry of Labor (MoL).

Additionally, three other Fruit of the Loom facilities in Honduras that produced or warehoused fleece products were visited: a) Jerzees Buena Vista, b) Jerzees Roatan and c) Jerzees Tela. These three facilities are located in different free trade zones. A walkthrough of each of the factories was conducted in order to observe the type of production performed.

Extensive review of documentation and confidential interviews were conducted in order to verify if the aforementioned allegations are true. Documents reviewed included:

- Personnel files for both supervisors and employees
- Disciplinary actions records
- Company policies (discipline, open door, retrenchment, etc).
- Meetings minutes
- Efficiency and productivity records for all factories
- Government documents
- Payrolls
- Production records
- Internal confidential memos
- Government minutes of incidents
- Collective Bargaining Agreement (CBA)
- JDH medical records

The monitoring team conducted the following interviews:

ALGI interviewed 77 workers in total, both onsite and offsite. The onsite interviews took place at the cafeteria of each facility visited, while the offsite ones were conducted at the offices of the union federation (CGT). Understanding the complexity of the investigation and the nature of the visit, monitors allocated flexible time for interviews during their stay in Honduras. On the first day, Monday November 10th, a total of 6 hours were allocated to the onsite interviews at JDH facility. During the second day, Tuesday November 11th, 6 hours were spent onsite, interviewing at Buena Vista, Roatan and Tela facilities and that night between 5:00PM and 8:00PM, two monitors interviewed workers at the CGT offices. On the third day, November 13th, 4.5 hours were spent at the Ministry of Labor and 6.5 hours at the CGT offices. No interviews were conducted during the fourth day. A total of 16.5 hours of onsite and a total of 11.5 hours offsite (CGT offices) were allocated for interviews.

All management present during the opening meeting were reminded of the non-retaliation policy regarding interviews clearly established in the FLA guidelines and protocols; interviewees were also informed of the confidential nature of the process and that no one would be reprimanded or punished for speaking to the monitors. Monitors provided all interviewees with their business cards and explained that they could get in touch with ALGI in case there were any repercussions for speaking to us. The selection of interviewees was structured to be proportional according to gender and included workers of the different production areas (sewing, finishing, quality, packing maintenance, security personnel, etc.) to ensure a fair representation of the work force. The questions were specifically related to the allegations made.

Jerzees de Honduras – 33 interviews:

- Supervisors: 9
- Production workers: 17 employees from different production areas (Russell does not have a list or knows who the union members are, except for the delegates).
- Maintenance area: 2 mechanics
- Internal security guards: 3 guards
- Pregnant women: 2
Jerzees Buena Vista – 14 Onsite interviews:
- Supervisors: 3
- Production workers: 10 employees from different production areas
- Maintenance area: 1 mechanic

Jerzees Roatan - 8 Onsite interviews:
- Supervisors: 2
- Production workers: 5 employees from different production areas.
- Maintenance area: 1 mechanic

Jerzees Tela – 20 Onsite interviews:
- Human Resources Manager: 1
- Supervisors: 4
- Production workers: 13 employees from different production areas
- Maintenance area: 1 mechanic
- Inventory: 1 employee

Central General de Trabajadores (CGT) - 30 Offsite interviews:
- CGT Delegate
- Jerzees de Honduras’ Employees: 26
- Quality Supervisor: 1
- Genesis Apparel’s Employees: 2 employees who were brought by the CGT Delegate.

Ministry of Labor - MoL (San Pedro Sula):
- Regional Director of San Pedro Sula
- Regional Supervisor of San Pedro Sula
- Labor Inspector
III. Findings

**Allegation No 1 - Hostile behavior by JDH**

Hostility by JDH management directed towards union members or representatives of the union federation to which the local union is affiliated in their exercise of associational rights; for example by telling workers that the facility would close if they exercised such rights; also after the announcement of the closure of the plant, JDH management made statements that workers’ associational rights were the cause of the company’s decision;

Ministry of Labor investigation related to a JDH supervisor that circulated an anti-union petition within the factory;

Involvement or connection between JDH management and alleged incidents of harassment from security guards in the industrial zone directed at any union member or representative of the union federation to which the local union is affiliated.

Monitors Observation – Uncorroborated Allegations:

On November 11th and 12th 2008, monitors met with a CGT delegate, the President of the Union, 28 delegate members and union sympathizers. In both meetings, the CGT delegate described several instances of harassment by JDH management against delegates of SITRAJERZEESH and employees who had been transferred from Jerzees de Choloma to Jerzees de Honduras as part of the re-hiring process of workers terminated at Jerzees de Choloma (151 workers in February 2008).

The CGT delegate provided monitors with documentation related to the case such as the complaints presented against the facility, minutes of the monthly meetings between union and management and a copy of the Collective Bargain Agreement, among others. The most serious situations -- from the union perspective -- were:

a) Continuous intimidating remarks by plant supervisors
b) JDH management utilization of an exempt employee (trabajador de confianza) to collect signatures and disrupt the CBA negotiations and discriminatory contract suspension of two employees identified by management as union sympathizers
c) Outsourcing of production to other facilities in Honduras.
d) Intimidating acts by security guards at the free trade zone.
A. Threatening remarks by plant supervisors regarding the instability of the facility caused by union/CBA negotiations:

As part of a fact finding process, monitors conducted 77 interviews to get a wide range of perspectives and corroborate the allegations leveled at JDH. Monitors conducted a total of 16.5 hours of onsite interviews and 11.5 hours offsite (at the CGT offices).

As stated above, one union federation delegate articulated to monitors the allegations listed above but monitors generally heard from the union members and sympathizers that they believe that management of JDH has an anti-union attitude, and that they have manipulated other employees and supervisors to conduct acts of harassment towards all union delegates and union sympathizers. The union and its federation reported to monitors that JDH supervisors had made statements that JDH was closing because there was a union and a collective bargaining agreement was about to be in place. According to the delegate, after the announcement of the closure was made, JDH supervisors continued to make statements suggesting the union was the cause of the closure.

Union representatives also expressed concern that if the factory closed, all known union sympathizers would not be hired by any other facility in the area. The union confederation delegate expressed it was the intention of the union to prevent the closure of this facility and to ask international human rights organizations for help to put pressure upon Fruit of the Loom/Russell to reconsider and keep the factory open.

Many non-unionized workers expressed displeasure with the union. They felt that there was no need to have a union and that too many negative changes were occurring as a result of the union presence. The belief that all private sector businesses would rather close than operate with a unionized facility is widely held in Honduras leading most workers to feel the union presence in the factory was one of the reasons it was closed down. Furthermore, workers are aware that the recession in the USA and its impact on Honduras economy also led to the closure.

JDH management holds that they have not, directly or indirectly, made harassing statements to the union. They maintain that since the implementation of the corrective action plan of 2007, following instructions from their headquarters, they have attempted to work together with the union, holding monthly meetings and discussions to hear any concerns that the unions may have and present to them their ideas and issues as well and they have negotiated with the union in good faith on a collective bargaining agreement. Further they reiterated
that the closure is not union related but due to financial reasons. JDH managers also referred to the economic crisis in the USA and Honduras and mentioned that other brands, such as Hanes and Sara Lee, have also closed plants in this country.

The staff from the MoL consulted expressed they have witnessed the closure process and they think the financial problems of JDH can be considered to be the main reason for the closure decision and therefore MoL has not had to take any measures against the company. The fact that this is the second facility of the group which has closed down after a union is formed, and the claims and complaints against it, have generated rumors that the plant closed down because there was a union.

Different groups interviewed had very different versions of the events. As this was the case, monitors focused the evaluation toward tangible records that would corroborate the events alleged by the union. The process involved searching and evaluating official and registered claims made against JDH at the Ministry of Labor regarding hostile behavior by JDH management. Additionally, monitors also sought to evaluate any events that may have been recorded regarding these incidents in order to further interview/question the individuals involved in the incidents.

On November 12th, 2008, monitors visited the Ministry of Labor (MoL); monitors requested their assistance to provide all available information regarding claims and complaints made against all Russell facilities in Honduras. The MoL presented a total of six cases since April 2008. Four of those cases were against JDH. Monitors focused on the claims made against JDH for the last eight months, as this period covers most of the activities related to the recognition of the union and the negotiation of the collective bargaining agreement. The four cases filed are summarized below:

**Case # 858:** On May 26th, 2008, a claim was presented against JDH regarding the settlement payments made to the claimant. The MoL determined that the severance calculations and payments were compliant with the labor regulations and the case was closed on June 3rd, 2008.

**Case # 2049:** On July 28th, 2008, a claim was presented against JDH alleging illegal suspension of labor contract against a worker identified by factory as a union sympathizer (this worker was one of the workers rehired by JDH after being terminated at Jerzees de Choloma). The MoL investigated the claim, evaluated the procedures including JDH
disciplinary policies and procedures and concluded that JDH followed its disciplinary procedures which were compliant with the legal requirements. Case was closed on August 6th, 2008.

**Case # 2239:** On August 5th, 2008, a claim was presented against JDH alleging illegal suspension of a labor contract against a worker identified by factory as union sympathizer (this worker was rehired by JDH after being terminated at Jerzees de Choloma). The MoL investigated the claim, evaluated the procedures including JDH disciplinary policies and procedures and found that JDH followed its disciplinary procedures which were compliant with legal requirements. Case was closed on August 7th, 2008.  

**Case # 2527:** On August 21st, 2008, a claim was presented against JDH stating that JDH managers were manipulating workers by utilizing an exempt employee (empleado de confianza) to act against the interest of the union and to collect signatures to form a second union.

On August 28th 2008, the Regional Ministry of Labor initiated an investigation at JDH. Minutes were taken of statements made by union members, witnesses, JDH management, the accused employee and his direct supervisor. Minutes reviewed revealed:

a) Union accused JDH management to be in violation of Article 545 of the labor code, for not allowing the union legal representative and its advisor from the Central General de Trabajadores (CGT), to enter the facility premises upon union request.

b) Union accused Mr. Antunez of collecting signatures during working hours. The union also asked JDH management to clarify the rumors about factory closure.

c) Mr. Antunez acknowledged having engaged on his own in the collection of signatures during non-working hours.

d) There were contradictory statements from union delegates, their witnesses, Mr. Antunez, his co-workers and his supervisor as to whether the collection of signatures took place during working hours or not.

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1 Both cases 2049 and 2239 although presented as separate cases involve the same activity that resulted in the temporary suspension of employment with no pay.
e) JDH Human Resource Management, Nadia Morales, confirmed that it is against company policy to engage in activities not related to work during working hours. Ms. Morales also testified that there is only one legally recognized union at JDH and that she did not know or had not heard anything regarding the alleged closure.

f) Management clarified that Article 545\(^2\) does not say that legal representation is permitted full access to a work place.

g) Ministry of Labor inspector warned Mr. Antunez of the protection to the workers’ right to organize under Article 469\(^3\) of the labor code and that he should refrain from acts against the union.

From the minutes recorded by the Regional Ministry of Labor investigation, the only resolution to the claim made on case # 2527, dated August 27\(^{th}\), 2008, was the warning to Mr. Antunez. No other references or resolutions to any of the above allegations were brought up. No further follow up was carried out by either party and the case was closed on November 12\(^{th}\), 2008.

**Monthly minutes of JDH management and union delegates meetings:** It was agreed by both management and union delegates to hold monthly meetings and discuss developments and issues of concern that either management or union representatives may have. The intention of these meetings was to find solutions in a progressive and constructive manner.

Monitors reviewed all the minutes taken from April 2008 to October 2008 and spoke to Mrs. Nadia Morales, Human Resources Manager of JDH, and the Union President, during one of the meetings at the CGT offices. The minutes showed topics of concern, follow ups, resolutions and signatures by all parties involved (JDH management and union representatives). A summary of the minutes is presented below:

\(^2\) Article 545 of the labor code states: “Any federation or confederation may advise its affiliated organizations in their dealings with employers in connection with disputes, or with the authorities or third parties in connection with representations of any kind.”

\(^3\) Article 469 of the labor code states: “any person that by means of threats or violence attempts in any form against the rights to freedom of association will be fined with the amount of 200 to 200,000 lempira, which shall be imposed by the competent labor official after a full investigation of the facts. Where the person concerned is found guilty of a criminal offence and is sentenced to a pecuniary penalty, the aforementioned fine shall be returned..”
### Monthly Meetings between JDH and Union

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<th>Administrative / Production issues</th>
<th>Harassment</th>
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<td>Total</td>
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During the seven months of meetings and discussions, a total of 90 issues of various kinds (administrative, security, safety, production, quality and misbehavior) were reported, monitors did not detect any clear issue brought by the union representatives regarding harassment by JDH management towards union members. Only one harassment case was identified in May 2008. The allegation states: “mistreatment from some supervisors to the associates.” Management suggested employees should report everyone who is involved in these unacceptable activities by using the ‘open door policy’ and the union committees.” Although supervisors are accused of harassment, the accusation does not specify that the harassment is directed towards union delegates or union sympathizers. Further review of minutes of the months to follow up to October 2008 did not identify any case that could be interpreted as anti-union behavior by JDH management.

During the meeting held on November 11th at the CGT offices, the Union President was asked to help identify harassment activities in the minutes provided or to further provide additional documentation to identify harassment by management. He stated that besides the minutes, there was nothing available at the time of our meeting. Monitors notified him that the following day, a member of the monitor team would be available at the CGT offices for further discussion or to collect supportive evidence to be provided. On the second day of

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⁴ Out of the 90 issues raised during the past seven months, one case is identified as harassment from supervisors.  
⁵ “Associates” refers to plant employees.
visit to the CGT offices, in the afternoon of November 12th, a monitor involved in the investigation stayed at the CGT offices for a period of approximately 6.5 hours interviewing additional employees gathered by the CGT delegate and to be available to receive information or evidence that could support such claims. The monitor was able to conduct additional interviews but no supporting evidence was provided.

**Conclusion:**

Out of the four claims presented at the MoL, only two were related to alleged hostile behavior by management towards union members. All four cases were investigated by MoL and subsequently closed. Although one of the cases referring to hostile activities (Case # 2527) mentions rumors of facility closure, managers or supervisors are not accused of being directly involved in such activities. As per Article 469 of the labor code, violations regarding any threatening act against a union carry a financial penalty. As per MoL, no penalties were imposed.6 No petitions or challenges by either JDH management or the Union were filed after the closure of the cases.

The second potential source of evidence could have been detected in the minutes of monthly meetings that both management and the union recorded during the past eight months. As indicated above, monitors did not identify any clear issue brought by the union that referred to hostile attitudes or acts towards union delegates. Additionally, union representatives did not provide any evidence to identify allegations of harassment.

The relationship between the union and JDH management during the monthly meetings they held beginning in April 2008 was respectful. A review of the meeting minutes corroborates that no complaints, accusations or problems between the two parties were registered. Even when the negotiations arrived at what was perceived as an impasse and it was decided to resort to arbitration, the parties still had a cooperative rapport. It was only when Jerzees de Honduras management communicated that the facility was going to close down that the problems seemed to start.

6 Article 469 of the labor code states: “any person that by means of threats or violence attempts in any form against the rights to freedom of association, will be fined with the amount of 200 to 200,000 lempira, which shall be imposed by the Inspector General of Labor, once it is proven.
B. JDH Manipulation of exempt worker (trabajador de confianza) to destabilize the union/CBA negotiations & Discriminatory labor contract suspension:

During the activities carried out on November 12\textsuperscript{th}, 2008, monitors met with the Regional Director of Ministry of Labor, San Pedro Sula, who stated that she had been informed by the legal representative of Jerzees de Honduras, Dr. Espinal, about the closure of the company in October. The Regional Director further stated that closure of plants in Honduras was affecting the country’s economic sectors and that it was probably due to the economic recession in the USA, the country’s main commercial partner.

As part of the investigation process and to follow-up on two important cases related to specific incidents mentioned by the union as clear harassment by management, monitor questioned MoL, to see how they had reached their conclusions.

**Case 2527: Hugo Antunez:**

The Labor Inspector in charge of the case of Mr. Hugo Antunez (export auxiliary employee) at Jerzees de Honduras, acknowledged that a case was presented to the MoL by the union SITRAJERZEESH on August 21\textsuperscript{st}, 2008. In this case, Mr. Antunez was accused of attempting to destabilize the union and the negotiations for the CBA, by gathering signatures from JDH employees during working hours, which is against company policy.

Labor inspectors carried out the investigation process on August 28\textsuperscript{th}, and it was confirmed and stated in the MoL investigation report, that Mr. Antunez had been creating a list to collect signatures to challenge the union. He said he did this during his lunch breaks and that this activity was his own initiative as no member of Jerzees de Honduras management had asked him or given him permission to do so. He took full responsibility for his own acts. The Labor Inspector stated that a written warning was presented to him on August 28\textsuperscript{th}, 2008 advising that no one can act against an established union and that this is a violation of Article 469 of the labor code and can be financially penalized.

**Case 2049 & 2239: Discriminatory suspension:**

On July 28\textsuperscript{th} and August 5\textsuperscript{th}, 2008, two separate claims were presented against JDH regarding an allegedly illegal suspension of labor contract against two union employees. MoL
investigated the claim, evaluated the procedures, including JDH disciplinary policies, and procedures and concluded that JDH had followed its disciplinary procedures which were compliant with legal requirements. Both cases were closed on August 6th and 7th, 2008 respectively.

Case 2527: Hugo Antunez - Interviews by monitors

The Union President stated that Mr. Antunez was seen by other members collecting signatures during working hours and he gathered/assumed that since management did not interfere with Mr. Antunez’ actions, it was a clear indication that his action was acceptable and thereby approved by JDH. The Union President further stated that Mr. Antunez holds a trustworthy position within the company (hombre de confianza).

Mr. Antunez stated and admitted openly that he and other associates had decided to collect signatures, not only on the occasion that the union was referring to, but on many other occasions as well. Mr. Antunez further stated that the main reason for his action was that he and many of his colleagues were affected by a temporary closure of the plant for a few days during the month of August. Since the closure had been planned early during the year, the workers had already arranged to travel to their hometowns. The union interference of this temporary closure led to cancellation of workers’ travel arrangements and they decided to collect signatures to eventually show their dissatisfaction to JDH management. Mr. Antunez assured Monitors this was not instigated by management and that all his activities were conducted prior to work hours and during his lunch breaks. The monitor consulted with management regarding the cancellation of the closure planned early in 2008 and management stated that it had been cancelled at the request of the union and that they had managed to find work for those days. It is important to note that all Jerzees plants closed during that time period except for JDH.

Monitors reviewed Mr. Antunez’s personnel file and payroll records. Those indicate that he is an employee, does not supervise other workers, and works as an auxiliary person in the export department. There are a few workers with the same title at that department. His direct supervisor, when interviewed, claimed that his department keeps very busy and because of the export activities, the area is separated by a fence from the production area. As per the supervisor’s perspective, it would have been most unlikely for Mr. Antunez to engage in activities different from his work responsibilities without the supervisor noticing it and if
he had found him conducting such activities, he would have proceeded to impose a disciplinary action for performing personal activities during working hours.

**Case 2049 & 2239: Discriminatory suspension – Interviews by monitors**

This person is one of the two employees who were temporarily suspended with no pay and presented a claim to the MoL. This worker claimed that the sole reason for her suspension was because JDH knows that she is a union sympathizer and was one of the employees who were rehired as part of the remediation process that took place in 2007 at Jerzees de Choloma. The worker stated that the reason used by JDH management to suspend her from work was that a friend (who was also disciplined) logged her time card for her. According to her, this is not a valid reason as this is a common practice in the plant. Monitors reviewed the minutes taken by the MoL, interviewed management, and visited the time clock during closing hours. In summary, the minutes and documentation recorded indicated that this worker left the factory one hour prior to closure to attend to some personal matters and asked her friend to log her out at the end of the shift. Her absence was noticed; she was paged on the PA system and did not respond. When she appeared soon after the end of the shift, she claimed that she had been not feeling well and had been resting in the bathroom. Monitors reviewed the record kept by the medical doctor at the facility and there was no record of this worker visiting the JDH doctor. The disciplinary actions taken by management against these two employees were due to their attempt to cover an unauthorized absence.

As per monitors’ observation at the end of the regular shift, a number of employees were logging the time cards of others. It is worth mentioning that this logging of time cards for others is not because some workers have left earlier, but just to avoid the standing in line. This was brought up to management who acknowledged this as a continuous problem and that they are trying to prevent this type of behavior by assigning security guards at each time clock. When management was asked to explain the rationale used for the above suspensions, management stated that the main cause of their decision was not the physical act of punching the card but the covering up of the unauthorized absence of the employee.

**Conclusion:** The Ministry of Labor concluded that Mr. Antunez was not manipulated or encouraged by JDH to collect signatures to oppose the union. On the case of the worker mentioned in the paragraph above, due process of disciplinary action taken by JDH was confirmed. Based on these elements, plus the interviews, monitors conclude that the
evidence presented does not reflect any actions to indicate involvement by JDH in attempts to interfere with the union. As per the alleged discriminatory suspensions, all evidence suggests that the two employees participated/engaged in an unauthorized absence action, which is a serious violation of company policies and disciplinary procedures were imposed upon them.

C. Outsourcing of production:

On November 12th, during the meeting at the CGT, the CGT delegate claimed that production for JDH was being manufactured at Genesis Apparel and she arranged to have two employees from Genesis Apparel meet with the investigators in an attempt to verify this. Both workers were interviewed by monitors and they stated they worked on T-shirts and that they had seen production of fleece products in their factory, basically for Costco and had not seen any labels belonging to Russell or Fruit of the Loom. The interview was relatively short as one of the employees had been mugged on her way to attend the interview and was troubled by this fact. The CGT delegate was puzzled to hear the responses from the two workers and urged them to procure the tags that identify Russell production. Monitor can confirm that the allegation of Russell production at Genesis is unfounded and no evidence was provided to show otherwise.

The CGT delegate presented documentation from a facility that used to sub-contract with Elcatex but which has already been closed down and mentioned that these documents included a contract for production for Jerzees until the end of 2008. As the facility in question has been permanently closed for business, no further follow up could be performed. JDH management stated and presented documentation that as of June 2008, all fleece outsourcing has stopped due to diminishing market demand.

D. Involvement or connection between JDH management and incidents of harassment from security guards in the industrial zone directed at union members or representatives of the union federation to which the local union is affiliated:

The procedure to investigate activities by the security guards would need a special permission since they are not employed by any of the facilities in the industrial zone and are managed by the industrial park organization. Monitors attempted to interview the guards but they refused to cooperate.
It is worth noting that management was notified that a security guard at the gate boarded the CGT delegate’s car when she came to visit the facility. Management acknowledged that this action was indeed intimidating. Mr. Fernandez, the plant manager, stated that he complained to the security guard management for this type of behavior. Furthermore, monitors would like to add that from personal experience that the guards’ behavior at the gate is extremely unfriendly, impolite and threatening, apparently to all guests. Upon arrival of the monitor team on November 10th, the security guards acted in a rude manner, stating that the phone lines to the JDH facility were down. When asked to call other numbers or to send one of the seven guards at the gate to the JDH facility to inform them of our visit, they simply ignored the request and said we had to wait. Monitors waited for over 45 minutes until one of the JDH managers arrived at the gate and acknowledged that it was fine to allow us in. This type of complaint was also raised by the MoL, which stated that many times in the past labor inspectors were not allowed to enter the gates without an appointment, interfering many times with the process of investigations.

**Overall conclusions of hostile behavior by JDH:** Monitors performed intensive evaluation of Jerzees de Honduras policies and procedures, government records review, governmental official interviews, JDH and the union, and carried out onsite and offsite interviews of all parties involved. As presented above, monitors did not detect or gather any tangible evidence to show without the benefit of a doubt that JDH has performed or encouraged actions that can be regarded as discriminatory or hostile against SITRAJERZEESH union delegates, the union federation (CGT) or any union or non-union employees.
**Allegation No 2 - Closure**

*Russell's decision to shut down one of its plants in Honduras - Jerzees of Honduras (JDH) as an attempt to interfere with employees’ associational rights and the pursuit of a collective bargaining agreement (CBA).*

Monitor Observations – Allegation Unfounded:

During the fact finding process, ALGI monitors did not detect any evidence to confirm allegations that Jerzees de Honduras (JDH) was closing due to the recent formation of a union or because of the ongoing negotiations towards a Collective Bargaining Agreement.

**Historical Perspective:** In 2006, Fruit of the Loom started the acquisition process of Russell Corporation. At that time, Russell owned and manufactured its products in five plants in Honduras. Fruit of the Loom’s strategic plan was to consolidate small plants into larger combined operations. Russell facilities, such as Cross Creek Honduras and Jerzees de Choloma, were closed down in the process. In early 2007, allegations that two Russell facilities (Jerzees de Choloma and Jerzees de Honduras) had engaged in activities that violated the rights of employees to organize themselves were confirmed and an immediate corrective action plan to recognize the union, re-hire terminated employees and retroactively pay what was due to workers, was put in place. This process was coordinated and structured with the cooperation of various stakeholders.

The methodology used by the monitor team to evaluate the aforementioned allegation, was to first determine if: a) diminishing demand for fleece products (the type of product manufactured at JDH) had indeed occurred and b) if the closure process had been strictly based on the best interests of the company and its employees.

**A. Diminishing demand for fleece products. The type of garment produced at JDH.**

In an attempt to corroborate verbal claims presented by Fruit of the Loom management that there was diminishing demand for fleece products, monitors evaluated the communications that had occurred between the corporate executive offices of Fruit of the Loom and JDH regarding production demand (specifically for fleece products).

Without any advance notice, monitors requested the executive officers of Fruit of the Loom to provide copies of emails or any correspondence regarding the alleged explanation of diminishing global demand that had eventually led to the decision to close JDH. Monitors were requested to sign a confidentiality agreement and soon after, the following electronic
correspondence became available to monitors:

Memorandum 1 - Respect for FOA (November 14th, 2007): Monitors received a memorandum sent to JDH management by an Executive Vice President of Fruit of the Loom dated November 14th, 2007, stating that Russell Corporation and its subsidiaries shall respect the right of workers to form unions or affiliate with organization of their choice, including trade unions. The memo further stated that the company agreed to implement and adhere to any agreement negotiated with its workers. It also emphasized that employees that join the unions will not be subject to any discrimination, retaliatory, disciplinary or punitive actions. Any supervisor or manager who violates these rights will be subject to disciplinary actions according to the company policy.

This corporate message was to be communicated to all personnel and a signed copy filed in each worker’s personnel file. As per interviews and review of personnel files, the procedure has been implemented.

Memorandum 2 - Work reduction (August 26th, 2008): Monitors were provided with a memorandum received by JDH Management on August 26th, 2008, sent by Corporate Russell Capacity Head Planner. The document stated a projected reduction in fleece goods for November and December 2008.

Memorandum 3 - Work reduction (September 3rd, 2008): Monitors were provided with a memorandum received by JDH management on September 3rd, 2008 sent by Corporate Russell Capacity Head Planner reconfirming in terms of quantities the reduction in fleece products for November and December 2008.

Memorandum 4 - Work reduction (September 22nd, 2008): Monitors were provided with a memorandum received by JDH management from corporate offices of Fruit of the Loom on September 22nd, 2008, stating that all facilities in Central America -- including JDH -- would be temporarily closed on October 21st and 22nd, 2008. The document stated that the two-day stoppage was not to affect the salaries of employees.

Memorandum 5 - Work reduction (October 27th, 2008): Monitors were provided with a memorandum received by JDH management from corporate offices of Fruit of the Loom on October 27th, 2008, stating that all facilities in Central America, including JDH, will have to temporarily close operations from November 21st, 2008 to December 1st, 2008. Again, the stoppage for five working days was not to affect the salaries of workers.

The written communications between Fruit of the Loom corporate management and JDH regarding production slowdown was regarded by monitors to be credible as well as the fact that Fruit of the Loom had engaged in a reduction of production including fleece products due to reduced demand.
B. Closure process has been strictly based on the best interest of the company and its employees.

For this specific component of the investigation, monitors evaluated Fruit of the Loom and Russell’s operations in Honduras. Based on the information provided it was determined that two other facilities also produced fleece products as JDH. In addition to JDH, Fruit of the Loom also produces fleece products in Jerzees Buena Vista and Tela.

Besides JDH, monitors visited two other fleece production facilities, Buena Vista and Tela, as well as Roatan, the centralized warehouse and distribution center for all Fruit of the Loom/Russell manufacturing in Honduras. The following observations were gathered:

- Among the three facilities that produce fleece products, one of them (Buena Vista) is owned by the corporation while the other two (Tela and JDH) are leased properties.
- Of the two leased plants, Tela has a lock-contract that expires in 2012, while JDH has a lease that has already expired and presently is rented on a month-to-month basis.
- Based on forecasts presented to monitors, the demand for fleece-basic pants is down. This affects the facility that engages in this type of production. Approximately 75% of the production at JDH is for basic pants.
- After visiting the Roatan distribution and warehouse facility, monitors can confirm that there is an excess of inventory on site. This was corroborated by the temporary stoppages in October and November.

Although monitors were unable to quantify the monetary differences in deciding which facility was in the best interest of Fruit of the Loom to close, based on the aforementioned criterion, JDH appears to have been the right choice.

**Conclusion:** According to Fruit of the Loom, the decision to close JDH resulted mainly from a combination of two unavoidable factors: the first and most important one was the reduced market demand for fleece products (basic pants) which came about as a result of global recession affecting production (see Appendix I attached). The second factor was the financial loss incurred in the process of restructuring its operations and manufacturing of fleece products. Monitors validate the rationale to select JDH instead of Buena Vista or Tela for the aforementioned considerations substantiates the claim that the closure of JDH was for economic reasons and not related to workers’ associational activities.
Fact finding - Collective Bargaining Agreement (CBA) & Closure Procedures

* Collective bargaining agreement between the company and the union and status of the negotiations

* Closure procedures

Historical Perspective: During 2007, some Russell facilities in Honduras were found to have engaged in activities that violated the rights of employees to organize and form unions. The investigations revealed that policies regarding freedom of association were not communicated or enforced. Disciplinary procedures were not systemic, there were cases of termination of union founding members, and management was not cooperative towards NGOs, Ministry of Labor (MoL) and the recently formed union.

Current Situation: Jerzees de Honduras has made progress by becoming actively involved in the process of working together with unions and stakeholders such as union federation and the WRC. During the November 2008 visit to Jerzees de Honduras (JDH), monitors evidenced a change in management approach towards the union. As recommended in the 2007 corrective action plan, JDH accepted the union, rehired all terminated employees, retroactively paid wages, worked with WRC in the process, including the closure of Jerzees de Choloma (JDC), helped relocate some terminated employees and prior to the closure announcement, worked very closely with the union to agree on a collective bargaining agreement. Additionally, in 2008, the company’s position regarding freedom of association, its recognition of the union and its policy were clearly communicated to workers and supervisors; additionally union delegates and facility management started holding monthly meetings, each bringing concerns to the table of negotiations.

Monitors can confirm that with the above procedures and actions, JDH management has made changes and initiated activities that reflect a positive and progressive relationship with the union.

Collective Bargaining Agreement (CBA): In October 2007, Jerzees de Honduras accepted the Sindicato de Trabajadores de la Empresa Jerzees de Honduras, S.A. (SITRAJERZEESH) as the union at JDH. Corporate executive officers of Fruit of the Loom communicated their intention to work with the union and that the union would not be subject to any discrimination or retaliatory behavior by local managers at JDH. On June 16th, 2008, the

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7 Monitor reviewed and retains copy of confidential memorandum sent on November 14th 2007, by corporate executive officer of Fruit of the Loom
union presented to JDH management a petition for the commencement of negotiations for a Collective Bargaining Agreement (CBA) containing 48 articles. The CBA negotiation was initiated and by October 3\textsuperscript{rd}, 2008, half of the articles (24) had been agreed on but the process reached an impasse. On October 8\textsuperscript{th}, 2008, Russell announced its intention to close Jerzees de Honduras due to diminishing demand as the result of the global recession.

**Closure procedure:** As previously stated, on October 8\textsuperscript{th}, 2008, Russell reached a decision and announced their intention to close Jerzees de Honduras. Management of JDH explained that the reason for closure is the global recession resulting in a need to reorganize and cut down production. The projected plan for complete shutdown of operations is May 2009, with a gradual reduction of workers in the proceeding months. At the time of the audit, JDH had terminated labor contracts with two large groups: the first one in October 28\textsuperscript{th}, 2008 of 118 employees, and the second on November 6\textsuperscript{th}, 2008, of 65 employees, for a total of 183 contracts. Jerzees de Honduras was anticipating another retrenchment process on November 30\textsuperscript{th}, 2008 at the time of this report.

The reduction of personnel is structured to follow the company’s retrenchment policy which states the following: “In the event that reductions in workforce become necessary (other than temporary reductions of 30 days or less), reductions will be done by job classification. Employees displaced shall occur on the basis of last in, first out among qualified employees who have demonstrated their ability and satisfactory performance to do their jobs. Seniority in the job classification (job seniority) is determined by the length of service in the company.”

At least 35 personnel files that belonged to the already-terminated workers were reviewed. Under the present procedure, employees are given the opportunity to verify and confirm if their severance payment is in compliance with the law. Calculations of severance payments\textsuperscript{8} were reviewed and the facility has so far made the right payment of compensation to all terminated employees. Two incidents of miscalculation were presented to the MoL. Both cases were reviewed and were found to be correctly calculated. Additionally, employees

\textsuperscript{8} As required in Articles 111, 101, 102, 116 of the labor code, upon termination of employment, the employer is obligated to compensate the workers. These compensations depend on seniority and include accumulated adjustment to be paid for other benefits (Aguinaldo, 13th and 14th months of salary, vacation, maternity leaves, etc).
interviewed at the facility confirmed that they have been informed of the closure and have been informed of the assistance available for displaced employees which consists of assisting in finding other alternatives for workers, such as employment at other facilities, availability at other Russell plants, etc.

All workers shall be pre-notified about their termination following Article 116 of the labor code “Preaviso” which states that if a corporation ceases doing business it must give the employees advance notice of the closing date. The notice ranges from 24 hours to 2 months depending on seniority: During the “preaviso”, the employee shall be entitled to have a compensated day off per week to search for a new position. Additionally, if Fruit of the Loom cannot provide employment to the worker during the “preaviso” period, he/she must be fully compensated for the remaining “preaviso”, entitlement.
Appendix I

Honduras – Facility closures in 2008

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Origin</th>
<th>Products</th>
<th>Closure</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zona Libre Ceibeña</td>
<td>USA</td>
<td></td>
<td>2/19/08</td>
<td>La Ceiba</td>
</tr>
<tr>
<td>Ceiba Industrial</td>
<td>USA</td>
<td></td>
<td>2/19/08</td>
<td>La Ceiba</td>
</tr>
<tr>
<td>Yoo Yang</td>
<td>Korea</td>
<td>T-Shirts, Shirts</td>
<td>2/20/08</td>
<td>ZIP Continental</td>
</tr>
<tr>
<td>Parque Ind. Real</td>
<td>Honduras</td>
<td></td>
<td>4/10/08</td>
<td>Choloma</td>
</tr>
<tr>
<td>Big Banana</td>
<td>Honduras</td>
<td>Screen printing</td>
<td>4/10/08</td>
<td>ZL El Carmen</td>
</tr>
<tr>
<td>American Dragon</td>
<td>Honduras</td>
<td>T-Shirts, Shorts</td>
<td>4/10/08</td>
<td>ZL Inhdelva</td>
</tr>
<tr>
<td>Kumotex</td>
<td>Korea</td>
<td>T-Shirts/ pants</td>
<td>5/12/08</td>
<td>ZL Pto. Cortes</td>
</tr>
<tr>
<td>Ace Fashion</td>
<td>Korea</td>
<td>T-Shirts/ pants</td>
<td>5/12/08</td>
<td>ZL Pto. Cortes</td>
</tr>
<tr>
<td>Advance Monitoring Associates</td>
<td>Honduras</td>
<td>Electronics</td>
<td>5/28/08</td>
<td>ZIP San José</td>
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<tr>
<td>Neotrade</td>
<td>Korea</td>
<td>T-Shirts</td>
<td>5/30/08</td>
<td>ZL San Pedro Sula</td>
</tr>
<tr>
<td>Stock America Central</td>
<td>Honduras</td>
<td>Stock buyer</td>
<td>7/22/08</td>
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</tr>
<tr>
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<td>Honduras</td>
<td>Labels</td>
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<td>ZIP San José</td>
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<tr>
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<td>Honduras</td>
<td>Cutting Services</td>
<td>7/31/08</td>
<td>ZL Inhdelva</td>
</tr>
<tr>
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<td>USA</td>
<td>General Services</td>
<td>7/31/08</td>
<td>ZL Astro Carton</td>
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<td>USA</td>
<td>Fabric Producer</td>
<td>7/31/08</td>
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<td>ZL Metropolitana</td>
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<td>Fabric</td>
<td>10/25/08</td>
<td>Green Valley Ind.</td>
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<tr>
<td>JB</td>
<td>Korea</td>
<td>Multi</td>
<td>10/18/08</td>
<td>ZL JB</td>
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<tr>
<td>Hanes</td>
<td>USA</td>
<td>Multi</td>
<td>Not determined</td>
<td>ZIP Choloma</td>
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