



2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL VERIFICATION REPORT *

COMPANY: WinCraft, Inc.
COUNTRY: China
FACTORY CODE: 840015797GV
MONITOR: Openview Service Limited
AUDIT DATE: October 13 – 14, 2010
PRODUCTS: Metallic Badges, Metallic Accessories
PROCESSES: Molding, Punching, Polishing, Plating, Painting, QC, Packing
NUMBER OF WORKERS: 301

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

***To read the original IEM report of this factory, please visit the FLA website [here](#).**
For an explanation on how to read this report, please visit the FLA website [here](#).



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Wages, Benefits and Overtime Compensation: Voluntary Wage Deductions

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

Noncompliance

Explanation: Factory makes an illegal deduction (vehicle parking fee). Bicycles are charged for 5 RMB per month and motorcycles are charged for 15 RMB monthly. The evidence was corroborated by management and worker interview.

Plan Of Action: Free parking will be furnished for all workers. This will be posted so all workers will know of this change in policies.

Deadline Date: 10/31/2008

Action Taken: Factory has canceled this illegal deduction (vehicle parking fee) since October 2008. Factory has also posted this notice in the bulletin board to inform all employees. Factory sent a photo (Photo 1) for reference.

Plan Complete: No

Plan Complete Date: 05/05/2009

Action Verified: No

Action Verified Text: Completed. Through payroll record review and worker and management interviews, it was noted that the bicycle or motorbike parking fee had been cancelled by the end of 2008.

Action Verified Date: 10/14/2010



Forced Labor: Employment Terms/Prohibitions

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

Noncompliance

Explanation: (New finding on October 14, 2010) Workers’ handbook stated that 1 hour overtime would be offset by 1 hour absence if workers were late for work. However, management and worker interviews, as well as payroll records review, indicated that no practical instance was imposed on any worker before.

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

Plan Complete: No

**Plan Complete
Date:**

Action Verified: No

**Action Verified
Text:**

**Action Verified
Date:**



Forced Labor: Freedom of Movement

F.10 If factory entrances are locked or guarded to prevent non-employee access to the premises for security reasons, workers shall have free egress at all times. (S/P)

Noncompliance

Explanation: Employees cannot freely leave the facility during the unpaid lunch break. All workers, randomly selected for an interview, stated that they could not leave the facility freely during the unpaid lunch break. If they wanted to leave the factory, they had to submit an application to the supervisors and get their approval. The situation was also confirmed by factory management, who expressed that it was in consideration for workers' safety. They thought that if workers leave the factory without submitting an application form, this would create a management problem. Also, they worry in case there are any accidents during the lunch break when workers are not in the facility. The evidence was collected through worker and management interview.

Plan Of Action: Employees do have the ability to freely leave the factory on their lunch break. They just need to inform employer in advance they are going to leave.

Deadline Date: 11/07/2008

Action Taken: The factory has noted the issue on the freedom of movement outside of the factory during unpaid lunch breaks. This rule is much more lenient now in terms that the employees now only need to notify a coworker of their absence from the facility. If the employee does not return to work on time, the company will demerit points for breaking company rules, too many misconducts may lead suspension of an employee.

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text: (Ongoing) Both management and worker interviews confirmed that workers still need to write an application and get written leave approval from the management before they leave the factory during the unpaid lunch break; verbal application was not accepted. Workers said that their application normally could be approved.

Action 10/14/2010
Verified
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: **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.

1. Employees do not have the right to freely associate.
2. As per worker interview, workers have no knowledge of their right to freely associate.

Trade union in factory is an ACFTU branch union. [Employee name] is the chairman of the factory union. There is no written proof showing the representative is elected by workers. While worker interviews showed the acknowledgment of the union chairman and union functions, they did not know about the election of the union chairman. The evidence was collected through worker interviews.



Plan Of Action: There will be meetings to ensure that the workers know their rights to freely associate.

Deadline Date: 11/07/2008

Action Taken: An ACFTU branch union exists at the factory. [Employee name] is the representative for all employees to consult. [Employee name] will represent work issues to our union president for the benefit of our employees. Also, factory employees are allowed to organize unions at their own free will. We provide proper HR management and representatives for all employees to speak to if needed, they are also informed of this during initial training. The factory provided photo for reference.

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text: (Pending) Factory had made their own code of conduct and posted it on the bulletin board, which stated that workers had right to form associations. Factory trade union was under ACFTU, which was contrary to the fundamental principles of freedom of association as per ILO standards. Worker interviews indicated they could freely choose to attend union or not. 85% of workers are union members. There are 31 union representatives in factory, including managers and supervisors (70%), and workers (30%). Based on review of trade union meeting minutes and interviews with workers, union representatives and management, it was noted that the union held a meeting once every 2 or 3 months in 2008, but there were no meeting minutes and other evidence to demonstrate the trade union is active in 2009 and 2010.

Action Verified Date:



Freedom of Association: Employer Interference/Formation of Alternative Organizations

FOA.8 In cases where a single union represents workers, the employer shall not attempt to influence or interfere in any way in workers' ability to form other organizations that represent workers. (S)

Noncompliance

Explanation: There is no evidence to prove that the chairman of the union was democratically elected by the union members. Evidence was collected through worker interviews and documentation review.

Plan Of Action: Factory will furnish a signed document to show that the union chairman was democratically elected by the union workers.

Deadline Date: 05/05/2009

Action Taken: Factory agrees to ensure that they will keep the records of all activities. Factory provided a photo to show that the union chairman was democratically elected by the union workers.

Plan Complete: No

Plan Complete Date: 05/05/2009

Action Verified: No

Action Verified Text: (Completed) According to the voting records provided by the factory and interviews with workers and management, it was confirmed that the trade union chairman was elected by the worker representatives.

Action Verified Date: 10/14/2010



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: Wincraft has not conveyed their code of conduct to the factory yet. Evidence was collected through management interview and documentation review.

Plan Of Action: Wincraft had furnished the code of conduct in English. Wincraft has now furnished a copy of the code of conduct in Mandarin Chinese; the factory has posted it.

Deadline Date: 05/05/2009

Action Taken: The factory has posted the code of conduct on the wall and has provided training at all levels to ensure all employees are aware of all policies and procedures. Factory provided photo for reference.

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text: (Pending) During factory tour, it was noted that Wincraft's Code of Conduct was not posted in the factory. Management interviews found that Wincraft had not conveyed its code of conduct to the factory.

Action Verified Date: 10/14/2010

Code Awareness:

GEN.2 Ensure that all Company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis.

Noncompliance

Explanation: Code of conduct is not posted and workers are not informed and trained on the code. Evidence was collected through document review and worker and management interviews.

Plan Of Action: The code of conduct will be posted and meetings have been held to inform and train employees on the code. Each employee should sign verifying that they have received this training.

Deadline Date: 11/07/2008

Action Taken: Factory has posted the code of conduct on the wall and has provided training at all levels to ensure all employees are aware of all policies and procedures. Factory provided photo for reference.

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text: (Pending) Management and worker interviews found that Wincraft's Code of Conduct had still not been posted; no communication and training had been provided for workers.

Action Verified Date: 10/14/2010

Code Awareness:

GEN.3 Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable Company employees and employees of contractors and suppliers to report to the Company on noncompliance with the workplace standards, with security that they shall not be punished or prejudiced for doing so.

Noncompliance

Explanation: Wincraft fails to develop a secure communication channel in the factory to enable its suppliers' employees to report to it on noncompliance issues. The evidence was collected through documentation review and management and worker interviews.

Plan Of Action: Wincraft has developed a secure and confidential method for employees to report any noncompliance issues that may occur. A suggestion box with pre-addressed envelopes has been set up. Photo verification is available.

Deadline Date: 11/07/2008

Action Taken: We have conducted a few suggestion boxes with pre-addressed envelopes in our facility for all the employees to report noncompliance issues.

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text: (Pending) Worker interviews indicated that currently there were no secure communications channels to enable them to report to the company on noncompliance. Management interviews revealed that Wincraft provided envelopes for workers to enable them to report noncompliances in the past, but currently discontinued this practice.

Action Verified Date:



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: (New finding on October 14, 2010) Through document review, it was found that the safety inspection certificate of 1 lift expired August 24, 2010. It violates Article 28 of Safety Monitoring Regulation of Special Equipment (PRC State Council Order #373).

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

**Plan No
Complete:**

**Plan
Complete
Date:**

**Action No
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**Action
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Text:**

**Action
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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: (New finding on October 14, 2010)

1. On-site observation found that there was no emergency light in the areas listed below: a) 2 exits in packing workshop and finished goods warehouse; b) 1 out of 2 exits in sampling workshop, canteen, pressing workshop and material warehouse;
2. There was no exit sign over the 2 exits of the finished goods warehouse.

The first finding violates Article 11.3.3 and the second finding violates Article 11.3.4 of Code of Fire Safety on Building Design (GB50016-2006).

**Plan Of
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**Action
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Plan Complete: No

**Plan Complete
Date:**

Action Verified: No

**Action Verified
Text:**

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Health and Safety: Bodily Strain

H&S.20 Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains. Employers shall train workers in proper lifting techniques and items such as belts shall be provided. (S)

Noncompliance

Explanation: No ergonomic practices are adopted. Workers with standing jobs are not provided with mats; workers with sitting jobs are not provided with armed chairs. Evidence was collected through documentation review and factory tour.

Plan Of Action: Factory is required to provide mats to workers with standing jobs and proper chairs to workers with sitting jobs.

Deadline Date: 11/07/2008

Action Taken: Management has furnished standing workers with mats and sitting workers with chairs. There are pictures available to verify that the workers have been furnished these items.

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text: (Ongoing) It was noted during the factory tour that the standing workers in the precise sculpture workshop had been provided with mats, but that there was no improvement for the workers who are sitting.

Action 10/14/2010

Verified

Date:

Hours of Work: General Compliance Hours of Work

HOW.1 Employers shall comply with all local laws, regulations and procedures concerning hours of work, public holidays and leave. (S)

Noncompliance

Explanation: (New finding on October 14, 2010) Based on the attendance records from August 2009 to August 2010, the weekly working hours of at least 30% of workers exceeded the 60 hours limit from October 2009 to August 2010, with a maximum of 78 hours.

Plan Of

Action:

Deadline

Date:

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Taken:

Plan No

Complete:

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Complete

Date:

Action No

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**Action
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Date:**

Hours of Work: Rest Day

HOW.2 Workers shall be entitled to at least one day off in every seven-day period. If workers must work on a rest day, an alternative day off must be provided within that same seven-day period or immediately following the seven-day period. (P)

Noncompliance

Explanation: (New finding on October 14, 2010) Through time record review, it was noted that at least 30% workers in polishing, fixing, packing, poly and loosing workshop could not be guaranteed to have 1 day off in 7 from September 2009 to March 2010. About 30% of workers worked 9 days, or even up to 35 days, consecutively. It violates Article 38 of China Labor Law.

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

Plan Complete: No

**Plan Complete
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Action Verified: No

**Action Verified
Text:**

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Verified
Date:

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: (New finding on October 14, 2010) Based on the observation made during the document review, the attendance records from August 2009 to July 2010 showed that the accumulated overtime of 30% workers exceeded the limit of 432 hours per year with the maximum up to 919 hours per year. Factory obtained a Comprehensive Working Time Program stipulating the overtime hours from August 1, 2009 to July 31, 2010 shall be limited to 432 hours per year. It violates Article 65 of the Instruction on the Implementation of the China Labor Law.

Plan Of
Action:

Deadline
Date:

Action
Taken:

Plan Complete: No

Plan
Complete
Date:



Action No
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