COMPANY: 47 Brand
COUNTRY: Vietnam
FACTORY CODE: 3900841200l
MONITOR: Global Standards
AUDIT DATE: December 15, 2010
PRODUCTS: Caps
PROCESSES: Cutting, Sewing, Finishing, Packing
NUMBER OF WORKERS: 1401

For an explanation on how to read this report, please visit the FLA website here.
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Wages, Benefits and Overtime Compensation: General Compliance Wages, Benefits and Overtime Compensation

WBOT.1 Employers shall comply with all local laws, regulations and procedures concerning the payment of wages and benefits, including overtime compensation. In any case where laws and the FLA Code are contradictory, the standard that provides the greatest protection for workers shall apply. Where provisions are lacking, employers shall take measures to reasonably accommodate matters concerning the payments of wages and benefits, including overtime compensation. (S)

Noncompliance

Explanation: Factory does not sign an annex to work contract for each worker when increasing wages as per law. So, the wage rate paid is higher than the rate in the labor contract in the employees' files.

Sources: record review (labor contracts, payroll), worker and management interviews

Legal Reference: The Labor Code, Article 33: In the course of implementation of a labor contract, any party who wishes to modify the contents thereof shall give notice of its intention to the other party at least 3 days in advance. The modification of the labor contract may be effected by way of amendments to the existing labor contract or by the conclusion of a new labor contract.

Plan Of Action:

Review all worker contracts to ensure that they are signed per legal requirement.

Sustainable Solution: Assign senior manager to periodically certify that contracts reflect all legal requirements.

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:
Wages, Benefits and Overtime Compensation: Record Maintenance

WBOT.21 Employers shall ensure that all legally required payroll documents, journals and reports are available, complete, accurate and up-to-date. (P)

Noncompliance

Explanation: Records shown to monitors were incomplete. Monthly working hours' summaries signed by workers were only available for November. Individual time records for workers took inordinately long to print or provide. No annual overtime tracking records provided. No discipline records provided. Recent labor inspection report was unavailable. Factory cannot explain and provide records for the amount of adjust increasing in the payroll.

Source: record review

Plan Of Action:

Identify records that may have inconsistencies. Create new system for recording data that avoids inconsistencies. Create a plan to reduce excessive working hours over time (see above). Communicate the plan to management and employees. Over time, reduce the hours of work until they are routinely at or less than the allowable maximum as determined by the Workplace Code of Conduct (COC) or required by law or a collective bargaining agreement (whichever is lower).

Sustainable Solutions: Establish an audit function that conducts periodic reviews of records in order to determine that they are accurate and complete. Identify root cause of inconsistency and resolve so that it will not reoccur. Identify and analyze the root causes of excessive overtime in consultation with appropriate stakeholders. Develop a comprehensive management plan that maintains working hours at or below maximum allowable levels. Implement the plan step by step. Educate management and employees about elements of the plan. Remind employees and management of the health and safety dangers of excessive working hours. Review the progress at maintaining the working hours targets every 6 months and adjust the plan as necessary.

Deadline Date:

Action Taken:

Plan Complete:

Plan Complete Date:

No
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: Vietnam has not ratified ILO Conventions 87 or 98. Under Vietnamese law, all unions are required to affiliate with the single trade union, the Vietnam General Confederation of Labor (VGCL), which is affiliated with the Communist Party. With respect to such union monopolies, the ILO Committee on Freedom of Association (FOA) has stated that "the rights of workers to establish organizations of their own choosing implies . . . the effective possibility of forming . . . [trade unions] independent both of those which exist already and of any political party." Vietnam's legal framework is therefore not compatible with the ILO Principles on Freedom of Association and, as such, all factories in Vietnam fail to comply with the FLA Code standard on Freedom of Association. Auditor Comment: 92% of workers are members of VGCL. Additionally, there is an ESH Committee and a Labor Dispute Committee.

Plan Of Action: This is an area that we struggle with being a small PC. Not having our own team on the ground makes it a challenge. However, we have been conducting our own searches trying to find the best way to grasp this area. We are working with our current 3rd party to increase our efforts and are working towards a training session at the factory. We have had the factory create a FOA Policy. Management began holding meetings with employees and fellow managers to discuss the policy. They worked to establish policies and procedures to prevent interference with employees' legal right to associate and organize. They have communicated policies to all employees and management. HR has up-to-date copies of all local laws dealing with union activity, resolution of strikes and other disputes, and collective bargaining.

Deadline Date: 

Action Taken:
Harassment or Abuse: Discipline/Progressive Discipline

H&A.2 Employers shall have a written system of progressive discipline (e.g., a system of maintaining discipline through the application of escalating disciplinary action moving, for instance, from verbal warnings to written warnings to suspension and finally to termination). Any exceptions to this system (e.g., immediate termination for gross misconduct, such as theft or assault) shall also be in writing and clearly communicated to workers. (P)

Noncompliance

Explanation: Factory could not provide discipline records to monitors to show a compliant written system of progressive discipline.

Sources: record review, HR staff and union leader interviews

Plan Of Action:
Establish a written system of progressive discipline (e.g., a system of maintaining discipline through the application of escalating disciplinary actions, moving, for instance, from verbal warnings to written warnings to suspension and finally to termination). Any exceptions to this system (e.g., immediate termination for gross misconduct, such as theft or assault) shall also be in writing and clearly communicated to workers. Appoint a senior executive to be responsible for the periodic review of the system of progressive discipline and of effective grievance mechanisms.

Sustainable Solutions: Conduct a quarterly review of the factory's discipline system to determine if it is being applied in a fair and consistent manner. Communicate all things learned to managers.

Deadline Date:

Action Taken:
**Plan Complete:** No

**Plan Complete Date:**

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**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:** COC posters for 47 Brand are not available in the factory. Codes are posted for Nike and other brands, including brands which have ceased production. 47 Brand has not conducted training here and factory has no information on a hotline or direct channel to PC.

**Sources:** visual inspection, worker and management interviews

**Plan Of Action:** Display the 47 Brand COC in the languages of workers in locations where workers can easily view it. Conduct a quarterly training program to discuss the provisions of the code with all employees. Review the provisions of the COC with new hires during their orientation and then during the quarterly meetings. Post the code in dormitory (if applicable).

**Sustainable Solutions:** Assign accountability to HR head or other senior manager to ensure that the provisions of the COC are translated in the languages understood by employees, including new employees. Periodically assess employees' awareness level of the obligations of code provisions through interviews, surveys or other means.

**Deadline Date:**

**Action Taken:**

**Plan Complete:** No

**Plan Complete Date:**
Miscellaneous: Illegal Subcontracting
MISC.1 Illegal Subcontracting

Noncompliance

Explanation: Factory uses third-party company to supply seasonal contract workers. It also has several subcontractors for sewing, as well as cutting, printing, embroidery, and washing. Contract with labor supply company does not specify the FLA code requirements as required by the FLA.

Sources: record review, management interview

Plan Of Action: Establish plan to apply all code and other FLA requirements to workers in or outside of the factory that contribute to 47 Brand products, including cutting, printing, embroidery and washing.

Sustainable Solutions: Plan must require that third-party companies adhere to code requirements and that third-party companies must be prepared to demonstrate steps to comply. Plan must also include instructions to management to treat third-party laborers inside the factory similarly to direct workers in terms of adherence to code requirements. Implement plan.

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date:
Health and Safety: Notification and Record Maintenance

H&S.7 Employers shall notify the relevant authorities of all illnesses and accidents as required by applicable laws. All illness, safety and accident reports shall be maintained on site for at least one year, or longer if required by law. (P)

Noncompliance

Explanation: Accidents are logged and reported as required on government forms, but there is little evidence of follow up or corrective actions to address risks or prevent future accidents. Safety Committee has not met recently, but met 6 months ago; there was no evidence of corrective actions.

Sources: record review, management interview


Plan Of Action:

All accidents must be documented in a written log, per government requirements. Management must review reports no less than weekly, in order to determine whether any safety or other precautions are required. For serious accidents, an immediate review is required. The nature of the review, recommended action steps, and a description of steps taken are to be routinely recorded in the log.

Sustainable Solutions: Create a safety team that includes workers as a part of the review process and to oversee the prevention of future accidents.

Deadline Date: 

Action Taken: 

Plan Complete: No

Plan Complete Date: 


Health and Safety: Evacuation Requirements and Procedure

H&S.9 All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, the installation and maintenance of an employee alarm and emergency lighting systems, ensuring aisles/exits are not blocked and that workers are not blocked within their workstations, employee education, evacuation procedures, etc.) shall be complied with. Workers shall be trained in evacuation procedures. Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually. (S)

Noncompliance

Explanation: Factory has large rolling doors at the exits, 2 of which were locked during working hours on the far side of factory C. Rolling doors should be unlocked and kept open for use as emergency exits. Some aisles in production were also obstructed with product and workstations. Evacuation plans posted were out of date and lacked details such as "you are here" markings. Aisles and arrow markings on the floor have worn off in places.

Source: visual inspection

Plan Of Action:

Keep all exit doors unlocked and open for use at all times during working hours. Post comprehensive evacuation diagrams prominently in all work areas. Indicate exit routes on walls, columns, and floors with photo luminescent safety materials, such as paint, panels, and strips. Walk new employees through evacuation routes and emergency exits during orientation. Review evacuation routes and emergency exits with employees anytime they are moved to a new department.

Sustainable Solutions: Adopt a policy that commits to facility fire preparedness and emergency safety. Communicate the policy to all managers and employees. Appoint a fire safety manager with the requisite skills and experience to oversee the implementation of comprehensive fire prevention plan. Measure and progressively reduce the risk of fire and progressively increase emergency preparedness through participation on an employee-management Safety Committee. Conduct an annual review of the fire prevention plan and incorporate needed enhancements as necessary.

Deadline
Date:

Action Taken:
Plan Complete: No

Plan
Complete
Date:

Health and Safety: Safety Equipment and First Aid Training

H&S.10 All safety and medical equipment (such as fire fighting equipment, first aid kits, etc.) shall be available in sufficient numbers throughout the factory, maintained and stocked as prescribed and easily accessible to workers. A sufficient number of workers shall be trained in first aid and fire fighting techniques. (S)

Noncompliance

Explanation: Fire extinguishers are checked every 2 weeks by factory policy; however, several extinguishers in production, warehouse, and office were not checked for over 1 month (i.e. missed 2-3 checks). Checks of exit lighting and other fire equipment also missing in places.

Source: visual inspection

Plan Of Action: Fire extinguishers and emergency exits' lights and doors need to be checked at intervals of no more than every 2 weeks. A checklist for the location of each extinguisher and exit sign needs to be on the checklist to ensure that all areas of the factory will be properly monitored and accounted for.

Sustainable Solutions: Adopt a policy that commits the facility fire preparedness and emergency safety. Communicate the policy to all managers and employees. Appoint a fire safety manager with the requisite skills and experience to oversee the implementation of comprehensive fire prevention plan. Measure and progressively reduce the risk of fire and progressively increase emergency preparedness through participation on an employee-management Safety Committee. Conduct an annual review of the fire prevention plan and incorporate needed enhancements as necessary.

Deadline
Date:
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: Working environment was tested on December 2, 2010, but official report was not issued yet. In addition to embroidery room, several other places were identified with noise greater than 85dBA in last years' report (2009). It was observed that around 90% of workers in the embroidery section, and most workers at the eyelet machines, do not wear any earplugs. A few workers were observed wearing ear protection at buttoning machines and die-cutting section.

Sources: record review; visual inspection, worker and management interviews

Legal Reference: Labor Code - Article 98

Plan Of Action: Train all workers on the proper use of personal protective equipment (PPE) and the benefits for workers to protect hearing. This training should take place on their first day of work, then on a bi-annual basis. Implement process of progressive discipline for failure to use proper PPE.
Sustainable Solutions: Adopt a policy that commits the facility to reduce risks to the head, ears, respiratory system, and feet to the extent possible; where reductions to safe levels are not possible, provide employees with good quality PPE, appropriate training, and incentives for proper use. Appoint a health and safety manager with the requisite skills and experience to oversee all aspects of risk reduction, PPE procurement, and usage. Create and implement a program to progressively reduce the risk of noise, head, and foot injury and respiratory exposure. Routinely seek input from employees on ways to reduce the risks to the head, respiratory system, ears, and feet through participation on an employee-management Safety Committee, a confidential employee helpline or through other communication channels. Review the risk reduction program annually and make necessary adjustments, as needed.

Deadline
Date:

Action
Taken:

Plan
Complete: No

Health and Safety: Chemical Management and Training

H&S.13 All chemicals and hazardous substances shall be properly labeled and stored in accordance with applicable laws. Labels shall be placed in the local language and the language(s) spoken by workers, if different from the local language. Workers shall receive training, appropriate to their job responsibilities, concerning the hazards, risks and the safe use of chemicals and other hazardous substances. (S)

Noncompliance

Explanation: 3 types of spray glue are used at a booth outside of embroidery; MSDS are posted and PPE is available. But, workers observed spraying, wearing no PPE and there is no sink or eyewash station. Training and awareness on proper precautions on the safe handling of chemicals need improvement.

Sources: visual inspection, worker interviews
Plan Of Action: Train all workers on the proper use of PPE and on the benefits for workers to protect themselves. This training should take place on their first day of work, then on a bi-annual basis. Implement process of progressive discipline for failure to use proper PPE.

Sustainable Solutions: Install sink for eyewash station. Review existing program for training on safe handling of chemicals with qualified industrial hygienist or similar professional; create improved program as needed; and apply training to existing and workforce and new hires. Appoint a health and safety manager with the requisite skills and experience to oversee all precautions related to use of chemicals. Retain a highly qualified service provider to train the workforce on proper precautions for safe handling of chemicals. Create a train-the-trainer module, so that the training can be repeated over time.

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete 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:** No annual OT tracking records provided and monthly working hours' summaries signed by workers only available for November 2010 (only several lines). Monitor could only review 6 cases in September, 6 cases in October, and 22 cases in November 2010. Workers worked over 60 hours a week for a number of weeks from September - November 2010. September 2010: 1/6 cases worked over 60 hours a week for 2 weeks; working hours from 64 - 72 hours a week. 3/6 cases worked over 60 hours a week for 1 week; working hours from 62 - 66 hours a week. October 2010: 3/6 cases worked over 60 hours a week for 3 weeks; working hours from 61 - 65 hours a week. 2/6 cases worked over 60 hours a week for 1 week (61 hours a week). November 2010: 5/22 cases worked over 60 hours a week for 1 week; working hours from 61 - 63 hours a week.

Sources: record review (time records and payroll from September - November 2010), worker and management interviews

Legal Reference: The Labor Code, Article 69: The number of additional hours worked shall not exceed 4 hours a day, 16 hours per week and 300 hours a year.

**Plan Of Action:**

Identify records that may have inconsistencies. Create new system for recording data that avoids inconsistencies. Create a plan to reduce excessive working hours over time (see above). Communicate the plan to management and employees. Over time, reduce the hours of work until they are routinely at or less than the allowable maximum as determined by the Workplace COC or required by law or a collective bargaining agreement (whichever is lower).

Sustainable Solutions: Establish an audit function that conducts periodic reviews of records in order to determine that they are accurate and complete. Identify root cause of inconsistency and resolve so that it will not reoccur. Identify and analyze the root causes of excessive overtime in consultation with appropriate stakeholders. Develop a comprehensive management plan that maintains working hours at or below maximum allowable levels. Implement the plan step by step. Educate management and employees about elements of the plan. Remind employees and management of the health and safety dangers of excessive working hours. Review the progress at maintaining the working hours' targets every 6 months and adjust the plan as necessary.
Deadline
Date:

Action
Taken:

Plan Complete: No

Plan Complete Date:


Hours of Work: Meal and Rest Breaks

HOW.3 Employers shall provide reasonable meal and rest breaks, which, at a minimum, must comply with local laws. (S)

Noncompliance

Explanation: Factory provides a 15-minute break when working overtime for more than 2 hours in a day, instead of 30 minutes as required by law. Full 30-minute “break” is paid as well as a meal allowance, but workers return to work after only 15 minutes. (Management says workers prefer to go home early, rather than take longer breaks.)

Sources: record review (time records and payrolls from September to November 2010); worker and management interviews

Legal Reference: Circular No.15/2003/LBTBXH-TT dated 06/03/2003: In cases where laborers work overtime for more than 2 hours a day, before the overtime work, employers must arrange for them an additional rest time of least 30 minutes which shall be counted into the overtime.
Plan Of Action: Create a plan to reduce excessive working hours over time. Communicate the plan to management and employees. Over time, reduce the hours of work until they are routinely at or less than the allowable maximum as determined by the Workplace COC or required by law or a collective bargaining agreement (whichever is lower).

Sustainable Solutions: Identify and analyze the root causes of excessive overtime in consultation with appropriate stakeholders. Develop a comprehensive management plan that maintains working hours at or below maximum allowable levels. Implement the plan step by step. Educate management and employees about elements of the plan. Remind employees and management of the health and safety dangers of excessive working hours. Review the progress at maintaining the working hours' targets every 6 months and adjust the plan as necessary.

Deadline Date:

Action Taken:

Plan Complete: No

Plan Complete Date: