

Case FACTORY CLOSURES Studies



Above: Gina Form Bra workers demonstrate in Bangkok

1. Gina Form Bra Factory, Thailand ■ 2. Hermosa Manufacturing, El Salvador
■ 3. Evergreen, El Salvador ■ 4. Hanesbrands, Mexico ■ 5. Gildan Activewear,
Mexico ■ 6. BJ&B, Dominican Republic ■ Lessons Learned / Common Themes

1. Gina Form Bra Factory

■ THAILAND

THE SITUATION: In 2002 and 2003, workers at the Gina Form Bra Factory in Bangkok, Thailand, fought a successful battle to defend their union, win reinstatement of fired union leaders, and negotiate a collective bargaining agreement. Conditions improved at the factory, as did industrial relations.

In September 2006, however, they received word that the Hong Kong-based owners, the Clover Group, were going to close the factory and shift orders to other Clover Group-owned factories in China or Cambodia. The owners tried to move equipment out of the country but were prevented from doing so when the workers appealed to the government.

Although the union initially fought to keep the Gina Form Bra factory open, the factory was closed in October 2006. Even then, the unionized Gina workers did not give up.

ACTIONS: Despite a military coup in Thailand, which brought the country under martial law, Gina workers mounted regular street protests to press for their rights. These protests were supported by sustained international pressure on brands buying from Clover Group from solidarity networks in the US, Europe, Hong Kong, and Canada. Buyers, including The Limited, Warnaco and Gap, were pressured to intervene on behalf of the workers.

THE RESULTS: Although some of the buyers initially refused to get involved in the case, arguing that they no longer had orders with that specific factory, most eventually agreed to pressure their supplier to respect the workers' rights. After lengthy negotiations, the owners agreed to pay all outstanding bonuses and legally required severance pay and approximately three-and-a-half months additional salary above the legal minimum severance pay for each worker. The package, worth approximately \$1.8 million (Canadian), is an exceptional agreement in a country where even legal obligations are routinely ignored when factories close. The campaign also helped establish that buyers do have a responsibility to ensure that a supplier respects workers' right during a closure, even if the buyer was not using that specific factory at the time of the closure.

LESSONS: Combined, timely action by workers and international supporters helped the workers obtain more than they would have received otherwise. Street demonstrations in both Thailand and Hong Kong ensured sustained media coverage and pressured the Thai government to pay attention. The presence of an active, militant union supported by its membership was a key element in enabling workers to hold out for better severance terms.

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2. Hermosa Manufacturing

■ EL SALVADOR

THE SITUATION: The closure of the Hermosa Manufacturing facility in El Salvador in May 2005 left former Hermosa workers without jobs, without back wages, without severance pay, without health insurance and without employee pensions. The factory's owner, Salvador Montalvo Machado, failed to make legally-required payments to the social security and retirement funds of workers, although the owner did report to the appropriate government agencies the amounts that were owed. Workers who organized a union at the factory prior to its closure were effectively blacklisted when the owner refused to give them a constancia (a record of employment), which would enable them to obtain jobs at other factories.

ACTIONS: The closure is the subject of a third party complaint filed with the Fair Labor Association (FLA), of which many of the buyers are members. Legal efforts to force the former owner to pay the workers their severance, outstanding wages and other monies due have been unsuccessful. Local demonstrations by workers have been supported by international pressure on the brands involved.

THE RESULTS: Buyers did lobby the Salvadoran in an effort to gain workers the monies owing and social security coverage, though their efforts were unsuccessful. Second, buyers have carried out training at a nearby factory to revise hiring procedures and eliminate the demand for a constancia. Third, in December 2006, the FLA announced the creation of an Emergency Fund "to provide immediate and direct assistance to the [former Hermosa] workers while efforts continue to hold the government of El Salvador and the factory owner responsible for carrying out their legal obligations to the workers." The fund distributed \$36,000 to organized ex-Hermosa workers in December 2006 and January 2007.

What the campaign in El Salvador and internationally failed to achieve was acceptance by the buyers of their responsibility to compensate workers for monies owed in the event that their supplier and the govern-



Above: ex-Hermosa Manufacturing workers demonstrate in front of factory gates.

ment fail to fulfill their legal responsibilities to the workers. Nor have buyers agreed that the workers should be hired on a priority basis in other factories they use in El Salvador, even when there is evidence of blacklisting.

In June 2007 MSN released a report recommending, amongst other things, additional Emergency Fund payments to the workers, priority rehiring at a nearby factory, and further pressure on the government to deliver health care to the workers.

LESSONS: Workers in the Hermosa case were left in a particularly bad position in part because of the time between the factory closure and action by the brands, which meant that any significant assets and/or buyer payments could not be seized or redirected. The government's failure to protect the workers' rights to priority over other creditors – something set out in the Constitution of El Salvador – made recovery of funds more difficult. Buyer monitoring failed to uncover violations earlier when they might have been remediated. Many of the buyers claim they were not producing garments in the factory at the time of closure, which made it harder to move the buyers to take responsibility for the workers' predicament. Further, the case strikes at a fundamental buyer reluctance to assume the responsibilities of an employer, even when the employer has failed to meet those responsibilities.

3. Evergreen

■ EL SALVADOR

THE SITUATION: After a series of lay-offs, the Evergreen factory in El Salvador shut down in December 2005, leaving approximately 525 workers without jobs. The factory's closure was precipitated in large part by the withdrawal of orders by Columbia Sportswear, which had been the factory's primary customer for a period of years. Columbia said it withdrew orders in response to labor rights issues at the factory. The factory failed to pay severance, back pay, and various legally mandated benefits to the workers and also owed a substantial amount of money to two employee pension funds to which it was legally obligated to contribute. In total, the factory owed \$1,293,000, including roughly \$506,156 in severance, wages and benefits to the workers, and roughly \$786,844 to the pension funds.

ACTION: Worker representatives and support organizations pressured the Salvadoran government to implement a recently established law that gives workers precedence over other claimants in the event that a factory closes with unpaid debts. The US-based Worker Rights Consortium (WRC) engaged Columbia representatives in a protracted set of discussions, and facilitated further discussions between Columbia, Campus Sports (Evergreen's US-based parent company), the workers, the Ministry of Labor, and the WRC.

RESULTS: Pressure on the Salvadoran government ultimately resulted in the workers receiving roughly \$250,000 through the liquidation of machinery and other materials owned by Evergreen. These funds were disbursed to the workers by an ad hoc commission comprised of representatives of the workers, factory management, and the Salvadoran Ministry of Labor.

Discussions with Columbia Sportswear resulted in the company agreeing to contribute \$120,000 to a fund to cover some of the unpaid debts to the workers. Columbia made a contribution based on two outstanding payments due to the factory, which they paid directly to the workers rather than to the supplier: 1) an amount of \$75,000 for products delivered from Evergreen, but not yet paid for; and 2) \$45,000 to buy back fabric originally owned by Columbia, but seized by the government when the factory closed.

Between the liquidation of assets and the debts paid by Columbia, the workers were able to receive approximately \$370,000 – or roughly three-quarters of the total compensation owed to them for severance, wages and benefits (leaving aside the unpaid compensation to the pension funds). This was a relatively positive result for a severance case in El Salvador, where workers frequently receive none of the compensation owed to them after a factory closure.

LESSONS: One key difference in this case, as compared to the Hermosa case, above, was that action was taken as soon as the factory closed, making re-direction of debts and liquidation of assets a possibility. This was possible in part because the WRC was already engaging with the factory and Columbia Sportswear prior to the closure. Also, Columbia Sportswear had outstanding payments due to the factory, which could be redirected to paying the factory's debts to the workers at no extra cost to the buyer. As a university licensee, Columbia was vulnerable to pressure from its university buyers if it failed to act.

4. Hanesbrands

■ MEXICO

THE SITUATION: In October 2006, workers being laid off by Hanesbrands in Monclova were pressured to sign documents before they were given their severance pay, asserting that they had not suffered any work-related injuries or illnesses, thereby relinquishing their right to compensation. To make matters worse, the company was unwilling to provide its employees with documents to which they were entitled enabling them to access social security health (IMSS) benefits.

ACTION: Negative media reports and pressure, including letters and a set of demands for “responsible closure” from MSN and SEDEPAC.

RESULTS: Hanesbrands reportedly stopped requiring workers to sign the statements of good health. Still, larger issues remain unaddressed, and Hanesbrands has so far refused to consult with the workers on their needs or to enter into a dialogue with SEDEPAC and MSN on how it could minimize the negative impacts of the closures on workers and the community. The company has refused to consider proposals from SEDEPAC and MSN on steps it could take beyond the legal minimum, such as support for training, assistance with job searches, support for co-operative micro-enterprise projects, keeping a workplace day care open during training and job searches, and urging other maquila owners to hire the displaced workers on a priority basis.

LESSONS: Companies like Hanesbrands that are unwilling to engage with labour rights NGOs or unions need to be pressured to do so. Although Hanesbrands is increasingly concerned about its brand image, it is not as vulnerable as other companies that have invested more in their brands, such as Nike or Gap. Other possible points of leverage that could be used include shareholder action, pressure through bulk purchasers (universities), international protests, and independent investigations by monitoring organizations in which universities are involved (WRC, FLA). The lack of an independent union in the factory able to mobilize the workers also limited what actions could be taken on the ground. It is worth noting that Gildan Activewear, a competitor of Hanesbrands, has become more willing to engage after experiencing a lengthy campaign in which many of these pressure points were used.

5. Gildan Activewear

■ MEXICO

THE SITUATION: In March 2007, when it announced it was closing its two factories in Mexico, Gildan Activewear proclaimed its intention to act “responsibly” by providing more support to its former workers than most apparel manufacturers in Mexico.

ACTION: Unlike Hanesbrands, Gildan did dialogue with MSN and SEDEPAC and made public commitments to going beyond the legal minimum when it announced the closures.

RESULTS: After an initial round of meetings with MSN and SEDEPAC, Gildan agreed to provide dismissed workers one or two months salary above legal severance in lieu of notice. Gildan is also contributing \$2,300,000 pesos (Can \$232,000) for a government-run job training program.

After further discussion, Gildan also agreed to make contributions to the government social security program (IMSS) so that unemployed former Gildan workers, though not their family members, would have health care coverage for one year after termination. This extension of health coverage beyond the eight weeks provided for by Mexican law is particularly important for women workers who were pregnant at

the time of the closure and for workers who have suffered workplace illnesses or injuries and require care for longer than eight weeks.

Significantly, Gildan is allowing SEDEPAC to monitor compliance with these commitments, as well as to monitor the training program. However, based on current information from the government, SEDEPAC is raising questions with Gildan as to whether the training program will provide workers the skills and opportunities they need to gain employment with wages and benefits comparable with those at the former Gildan facility.

LESSONS: Gildan has been more sensitive to pressure from past experience – having already felt the effect of international campaigns on worker rights violations, shareholder action, complaints from institutional buyers (universities, cities), and other forms of campaigning and engagement. Also, Gildan is a member of the Fair Labor Association (FLA) and has been the subject of third-party complaints with both the FLA and Worker Rights Consortium (WRC). Lastly, the company is currently seeking to establish itself as a brand-name, which makes it more vulnerable to bad publicity.



Right: U.S. Students demonstrate to support BJ&B workers, above.

6. BJ&B

■ DOMINICAN REPUBLIC

THE SITUATION: In February 2007, the owners of the BJ&B factory in the Dominican Republic announced the impending closure of a factory that had been the site of a hard won union victory. The owners, Yupoong, told workers that the factory could no longer remain competitive due to the need to import materials and a lack of cutting-edge technologies and local infrastructure.

According to a joint statement from the Fair Labor Association (FLA) and the Worker Rights Consortium (WRC), “there were significant flaws in the severance process at BJ&B and the process fell well short of best industrial relations practices in the industry. A collective negotiation over severance for the BJ&B workforce did not take place; there were severance negotiations between management and the union, but they applied solely to union leaders and pregnant workers. Management also did not give advance notice to the union and workers, or engage in a process of consultation with the union.”

ACTION: An international campaign was unsuccessful in keeping the unionized factory open. However a meeting was organized between the union, management, buyers and the International Textile, Garment and Leather Workers Federation (ITGLWF), the WRC and the FLA in the Dominican Republic.

RESULTS: The company and the union negotiated an improved severance package that includes three months severance pay for workers and a DR\$200,000 (\$6,326 Cdn) payment to the union for organizing



and training purposes. The WRC reports that “this donation was made in lieu of the union’s original proposal that Yupoong donate funds and production

machinery for a training center for ex-BJ&B workers to be operated by the union in the town of Villa Altagracia.”

LESSONS: In this case, the workers benefited from the international profile of the factory, which, since the independent union’s initial victory at the end of 2002 and the negotiation of their first collective bargaining agreement the following spring, had been considered by US anti-sweatshop groups as a potential model for other factories. International attention helped ensure the participation of the union membership in the negotiation process post-closure, and the intervention of the ITGLWF helped to ensure that collective bargaining over the terms of closure took place. While, initially successful, the company’s efforts to exploit divisions within the union were turned back when union members appealed to international trade union organizations that were able to intervene on behalf of the workers. In this case, the high level of awareness of and concern about the situation at the international level helped to bring the various parties to the table, including the factory owner and the remaining brand buyer.

General Lessons / Common Themes

While there has been very little success in keeping factories open whose owners have decided to close the facilities and/or buyers have decided to cut orders, there has been some success in winning workers' legal entitlement and additional benefits, training and other job opportunities.

Success in obtaining what is legally due to workers, or more in some cases, was most likely in situations where:

- Workers had an independent union with broad support to bargain with the employer and/or organize worker protests and solidarity actions;
- Workers and their supporters acted quickly to challenge the closure, and/or had preemptively challenged worker rights violations even before the closure;
- Workers used street demonstrations and action on the ground to pressure the employer and/or the government;
- Government was engaged in the process or forced to act;
- Local and international media coverage was initiated and sustained;
- International supporters put pressure on the buyers;
- Workers' organizations and/or local labour rights NGOs had prior relationships with international campaign groups;
- International supporters had prior engagement with the buyers and were able to motivate them to take action;
- Buyers had a significant investment in their brand image and were sensitive to media or other reports that might tarnish that image; and/or
- Buyers were vulnerable to action by institutional buyers and/or shareholders.



Success was more difficult to achieve in situations where:

- Workers were not organized or mobilized;
- Workers' organizations and/or local labour rights NGOs did not have prior relationships with international campaign groups
- There were no actions on the ground to challenge the closure;
- Media coverage was absent or not sustained;
- Government was not engaged and/or failed to meet its responsibilities;
- Buyers were not challenged internationally or were less sensitive to pressure;
- International groups had no prior relationship with buyers; and/or
- The employer or buyers were not challenged in a timely way.