



2011

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Russell Brands/Fruit of the Loom

COUNTRY: Philippines

FACTORY CODE: 260059567J

MONITOR: Achdian Triwandhani

AUDIT DATE: December 15, 2011

PRODUCTS: Leggings, Shorts, Capris, Pants

PROCESSES: Cutting, Sewing, Finishing,
Quality Control, Packing

NUMBER OF WORKERS: 898



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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: The legally mandated benefits including SSS (social security), Philhealth, and Pag-Ibig are not provided to the 57 piece rate workers. Also, no 13th month pay is given to any piece rate workers.

Sources: worker and management interviews, document review

Legal references: Republic Act No. 7875- National Health Insurance (1995), Article III, Sec. 6; Social Security Law (1997), Sec. 9(a); and Republic Act No. 7742 Sec. 4: Coverage in State Insurance Fund shall be compulsory for all employers and their employees under 60 years of age: If an employee is over 60 years of age and pays contributions to qualify for retirement or life insurance benefit administered by the System, they shall be subject to compulsory coverage. Memorandum Order No. 28- Revised Guidelines on Implementation of 13th Month Pay (1986), Sec. 5: employees paid on a piecework basis are by law entitled to 13th month pay.

Plan Of Action: Factory will immediately provide the required benefits to piece rate workers and, as applicable and possible, back pay of 2011's 13th month wages. Furthermore, specific training will be arranged for the company's payroll officer and HR manager to address the practical issues and complications of hiring piece rate workers. A reminder of the required benefits will be included in hiring procedures as a reference for managers in the future.

Provide benefits: Immediately

Modify hiring procedure and train managers: April 2012

Deadline Date: 04/30/2012

Action Taken:

Plan No
Complete:

Plan
Complete
Date:

Wages, Benefits and Overtime Compensation: Minimum Wage

WBOT.2 Employers shall pay workers at least the legal minimum wage or the prevailing industry wage, whichever is higher. (S)

Noncompliance

Explanation: Factory has a total of 57 workers paid on piece rate basis and does not have a time and motion study (TMS) approved by the Department of Labor and Employment (DOLE). Factory also does not maintain proper documentation regarding how piece rates are derived. Per management, piece rates have been derived from PHP 320/day (higher than minimum wage of PHP 315/day).

Piece rate workers are not assured of minimum wage on a daily basis as evidenced by their production outputs. All interviewed piece rate workers reported that they are not sure of the required quota/target. Lowest production output per day was equivalent to PHP 64.50/day; the highest PHP 335/day. Around 26 trial workers received PHP 236.25/day instead of minimum wage.

Sources: worker and management interviews, document review

Legal references: TESDA, Office of Apprenticeship (2003): Where piece rates are established by DOLE through TMS, provisions on hours of work, OT and premium pay do not apply. Thus, piece rate workers who work beyond 8 hours shall be entitled to only 100% of prescribed rates; apprentice piece raters to 75% thereof. However, if piece rates are company prescribed, workers shall be given OT pay of 125% of piece rates; if they fail to reach quota, their daily pay should at least be equal to the prevailing minimum wage.

Plan Of Action: Factory will clearly indicate daily quota to all piece rate workers and will calculate and document an appropriate and attainable quota for piece rate workers by conducting a TMS (which will include preparatory work) and securing DOLE approval. Until DOLE approval is secured, the factory will guarantee minimum wage for all piece rate workers, regardless of production level; this will ensure compliance with local wage requirements for all workers concerned.



Trial workers will be appropriately registered as apprentices and paid accordingly.

Guaranteed minimum wage for piece rate workers: Immediately

Register trial workers: February 2012

Conduct TMS: February 2012

DOLE approval: March 2012

Deadline Date: 03/31/2012

Plan Complete: No

Plan Complete Date:

Wages, Benefits and Overtime Compensation: Payment for All Hours Worked

WBOT.7 Workers shall be paid for all hours worked in a workweek. Calculation of hours worked must include all time that the employer allows or requires the worker to work. (S)

Noncompliance

Explanation: Off-clock work was observed in sewing lines 3, 4, 5 and 7. At least 15 sewers and helpers observed were working at 12:00pm (their break time is 11:30am-12:30pm). Workers confirmed that they were working for up to 30 minutes into their 60-minute lunch break in order to ensure that they have enough material supplies when official work resumes after lunch.

Sources: worker interviews, observation

Legal references: Labor Code of Philippines (1974), Sec. 85: Subject to such regulations as Secretary of Labor may prescribe, it shall be the duty of every employer to give his employees not less than 60 minutes time off for their regular meals. Labor Code of Philippines (1974), Sec. 87: work may be performed beyond 8 hours/day, provided that employee is paid for the OT work, an additional compensation equivalent to regular wage plus at least 25% thereof. Work performed beyond 8 hours on holiday/rest day shall be paid an additional compensation equivalent to rate of first 8 hours on holiday/rest day, plus at least 30% thereof.

Plan Of Action: As part of a broad employee orientation refresher, factory will explain the importance of daily breaks to employees and will begin discouraging this type of behavior. Supervisors will strictly monitor this in order to avoid preparatory work being done. And, as required in the beginning, factory will shut down power during lunchtime to strictly prohibit off-clock work.

Training refresher in groups: January-June 2012

Shut down power: January 2012

Deadline Date: 01/31/2012

Plan Complete: No

Plan Complete Date:

Wages, Benefits and Overtime Compensation: Calculation Basis for Overtime Payments

WBOT.8 Employers shall compensate workers for all hours worked. For workers on a piece rate payment scheme or any other incentive scheme, payments for overtime hours worked shall be calculated by applying the premium rate required by law or this Code on the same payment scheme as is used for calculating wages for normal working hours, unless the payment scheme used leads to higher wages for workers. (S)

Noncompliance

Explanation: Factory has a total of 57 workers paid on piece-rate basis. Factory does not have TMS approved by DOLE; subsequently, factory is required to assure OT premiums for piece rate workers. All piece rate workers observed not to be assured of OT premiums, as production outputs do not meet minimum wage of PHP 315/day, even with 2 hours of OT work.

Sources: worker and management interviews, document review

Legal reference: TESDA, Office of Apprenticeship (2003): Where piece rates are established by DOLE through TMS, provisions on hours of work, OT and premium pay do not apply.



Thus, piece rate workers who work beyond 8 hours shall be entitled to only 100% of prescribed rates; apprentice piece raters to 75% thereof.

However, if piece rates are company-prescribed, workers shall be given OT pay of 125% of piece rates; if they fail to reach the quota, their daily pay should at least be equal to prevailing minimum wage.

Plan Of Action: The factory will implement a DOLE approved TMS to properly calculate wages. If factory fails to obtain DOLE approval, they will implement OT rates and guarantee minimum wage regardless of production output.

Pay 125% for OT hours: Immediately

Conduct TMS: February 2012

DOLE approval: March 2012

Deadline Date: 03/31/2012

Action Taken:

Plan Complete: No

Plan Complete Date:

Wages, Benefits and Overtime Compensation: Payroll Record Maintenance/Worker Acknowledgement

WBOT.20 All compensation records shall be maintained accurately and shall be acknowledged by the worker as accurate. (P)

Noncompliance

Explanation: Only 3 payroll periods (April 4-7, May 23-26, November 25-30, 2011) for piece rate workers were available for review during monitoring. The available payroll records did not have worker signatures.



Sources: worker and management interviews; document review

Legal reference: Omnibus Rules Implementing Labor Code (1989), Book III Rule X, Sec. 6 (b): every employee in payroll shall sign (or place thumbprint), at the end of the line opposite his name, where a blank space shall be provided for the purpose. His signature and thumbprint shall be made in ink or with stamping ink and pad, respectively.

Plan Of Action: Factory will accurately and sustainably (for period of at least 12 months) maintain payroll records for all workers. This will be the responsibility of the accounting officer and will be included in that person's job description.

The factory will create a written procedure for recording, verifying, and maintaining payroll records. Further, factory will assign a person responsible for providing pay slips to piece rate workers and for collecting workers' signatures/thumbprints for verification.

Employee verification: Immediately

Maintain payroll records: Immediately

Write updated job description and procedures: April 2012

Deadline Date: 04/30/2012

Action Taken:

Plan Complete: No

Plan Complete Date:



Harassment or Abuse: Discipline/Fair and Non-Discriminatory Application

H&A.4 Employers shall apply disciplinary rules, procedures and practices in a fair and non-discriminatory manner to all workers. (S)

Noncompliance

Explanation: Excessive disciplinary action is implemented. From the factory's Rules and Regulations, Chapter II (Table of Offenses and Penalties), the following disciplinary actions were noted:

1. Unauthorized absences: 1 day's absence gets 2 days of suspension without pay for 1st offense, 3rd offense gets up to 1 week of suspension
2. Chatting with co-workers not related to work during work hours: 1st offense gets 3 days of suspension, 3rd offense gets 15 days of suspension
3. Unauthorized standing/walking in work place during work hours: 1st offense gets warning letter, 2nd offense gets 1 day of suspension, 3rd offense gets 3 days of suspension, and 4th offense gets dismissal.

Sources: worker and management interviews, document review

Plan Of Action: Factory will revise disciplinary procedures to begin progressive penalties with verbal and/or written warnings, rather than suspension and dismissal. New procedures will also include an appeals process for employees. The new policy will be distributed to managers and supervisors, told to employees through orientation refresher, and posted on factory bulletin board for employee reference.

Revise procedures: February 2012

Management training: March 2012

Training refresher in groups: January-June 2012

Deadline Date: 03/31/2012

Action Taken:

Plan Complete: No

**Plan
Complete
Date:**

Harassment or Abuse: Discipline/Training of Management

H&A.7 Employers shall ensure managers and supervisors are fully familiar with the factory disciplinary system and trained in applying appropriate disciplinary practices. (P)

Noncompliance

Explanation: Managers, supervisors and line leaders are not trained in appropriate disciplinary practices.

Sources: document review, interviews

**Plan Of
Action:** Managers, supervisors, and line leaders will receive training on the new disciplinary procedures upon their completion. This training will also be held for individuals immediately after hiring/promotion and periodically through the orientation refresher.

**Deadline
Date:** 03/31/2012

Action Taken:

**Plan
Complete:** No

**Plan Complete
Date:**

Child Labor: Proof of Age Documentation

CL.3 Employers shall collect and maintain all documentation necessary to confirm and verify date of birth of all workers, such as birth certificates. In addition, the employers shall take reasonable measures to ensure such documentation is complete and accurate. (P)

Noncompliance

Explanation: Young workers were not found at the time of monitoring. Factory hired 57 piece rate workers, who were all observed to appear either mature or over 30 years old. However, factory does not maintain all documentation necessary to confirm and verify dates of birth, such as birth certificates, for around 57 piece rate workers and 1 worker selected from cutting area.

Sources: worker and management interviews, document review

Plan Of Action: Specific training will be arranged for the company's HR Manager to address the practical issues and complications of hiring temporary piece rate workers. It will be HR Manager's responsibility to collect all pertinent documentation from potential employees (temporary and permanent); this responsibility will be added to the written hiring procedure.

Collect documentation: January 2012
Revise hiring procedures: March 2012
Training for HR Manager: April 2012

Deadline Date: 04/30/2012

Action Taken:

Plan Complete: No

Plan Complete Date:

Miscellaneous: Illegal Subcontracting

MISC.1 Illegal Subcontracting

Noncompliance

Explanation: Monitoring of outsourced canteen workers not conducted in terms of work hours, wages, benefits and employment practice. Also, no training about Russell's Code of Conduct (COC) is given to outsourced canteen workers. The following concerns were noted:

1. Inaccurate time records observed for canteen workers; manual logbook is used. Workers may or may not log-in/log-out when working. During the assessment, canteen manager and workers confirmed that they work until 9:00pm to prepare food for the factory's night shift workers. 3 outsourced canteen workers were found to be performing overnight work. However, this work was not recorded in time records provided for review. Actual work hours, including overtime work, could not be accurately assessed for outsourced canteen workers.
2. Excessive regular work hours observed for outsourced canteen workers. Workers may work from 7:30am-4:30pm or from 7:30am-7:00pm. However, they are only paid their respective daily rates, ranging from PHP 250/day to PHP 500/day, with no overtime premium. On occasion, workers would also work up until 9:00pm. As confirmed by canteen management, overtime pay starts only from 6:00pm or 6:30pm.
3. Night differential (10% of current rate) is not paid to outsourced canteen workers working between 10:00pm and 6:00am.

Sources: canteen worker and management interviews, document review

Legal references: Omnibus Rules Implementing the Labor Code (1989), Book III Rule X, Sec. 7: Every employer shall keep individual time records for all employees, bearing signature/thumbprint of employee concerned for each daily entry, by means of any of the following methods:

- a) Use of Bundy clock, where employee can punch time of arrival/departure on individual card;
- b) Through employment of a timekeeper, whose duty is to time every employee in/out in a record book; and c) by furnishing employees individually with a daily time record form where they can mark their arrival and departure times from work.

Labor Code of the Philippines (1974), Sec. 83: Normal hours of work of any employee shall not exceed 8 hours a day. Labor Code of the Philippines (1974), Sec. 86: every employee shall be paid night shift differential of no less than 10% of regular wage for each hour of work performed between 10:00pm and 6:00am.



Plan Of Action: Factory will work closely with canteen contractor to explain the importance of full compliance with all areas of law, specifically hours of work and compensation. Factory's administrative officer will be responsible for explaining these requirements to contractor, and will assist by maintaining the required personnel documents and providing the proper infrastructure for recording work hours. Factory management will closely monitor wages paid to canteen workers to ensure proper night differential and OT wages are established.

Record work hours: Immediately
Ensure proper OT wages: Immediately
Collect personnel documents: February 2012
Establish acceptable work hours for canteen workers: April 2012

Deadline Date: 04/30/2012

Action Taken:

Plan Complete: No

Plan Complete Date:

Health and Safety: General Compliance Health and Safety

H&S.1 Employers shall comply with all local laws, regulations and procedures concerning health and safety. (S)

Noncompliance

Explanation: The hazard assessment that identifies potential risks and hazards pertaining to jobs in all sections has not been conducted.

Sources: document review, management interview



Legal reference: Occupational Health and Safety Standards, Rule 1090 - Hazardous Materials (1990), Sec. 1093.12: All workers shall be thoroughly informed of health hazards connected with their work and the measures to be taken to protect themselves from these hazards.

Plan Of Action: Factory's safety officer will perform risk assessments for all types of work in the factory, to identify potential safety hazards and appropriate behaviors, and to decide if PPE usage is necessary to avoid those risks. Upon completion, the officer will hold group-training sessions for each relevant employee function. This training will be conducted upon hire and semi-annually.

Conduct risk assessments: February-March 2012

Train workers: April-June 2012

Deadline Date: 03/31/2012

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: 3 secondary aisles located in the sewing areas observed to be partially blocked with workstations and production materials. Additionally, boxes of finished goods blocked an aisle in the packing area.

Source: observation

Legal reference: Occupational Safety and Health Standards, Rule 1940: Fire Protection and Control (1990), Sec. 1943.03(8): Safe, continuous, and unobstructed passageways with a minimum width of at least 1 meter, but not less than width of exits, shall be provided and maintained.

Plan Of Action: Factory will remove obstructions and begin regular work floor inspections to maintain adequate evacuation paths. Records of these inspections will be kept with the safety officer. While this is ultimately the responsibility of the safety officer, safety committee and line leaders, it will also be covered in periodic orientation refresher for all employees. Additionally, workstation efficiency will be analyzed, and factory will evaluate the possible addition of interim locations for production materials and packed boxes to keep aisles clear.

Remove obstructions: Immediately

Adjust workstations as needed: January 2012

Evaluate locations for materials and boxes: February 2012

Deadline Date: 02/29/2012

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: 3 fire extinguishers observed blocked by production materials in the sewing area and in finished goods storage.

Source: observation

Legal reference: Protection and Control, Sec. 1944.05(1)(d): Extinguishers shall be installed on hangers or brackets conspicuously located in readily accessible unobstructed areas in case there is a fire.

Plan Of Action: Factory will immediately unblock fire extinguishers and begin regular work floor inspections to maintain clear access. Records of these inspections will be kept with the safety officer. While this is ultimately the responsibility of the safety officer, safety committee and line leaders, it will also be covered in periodic orientation refresher for all employees. The use of temporary staging areas will be evaluated to help maintain clear aisles and extinguishers.

Unblock extinguishers: Immediately

Safety inspections: Immediately and ongoing

Deadline Date: 01/31/2012

Action Taken:

Plan Complete: No

Plan
Complete
Date:

Health and Safety: Machinery Maintenance and Worker Training

H&S.18 All production machinery, equipment and tools shall be regularly maintained and properly guarded. Workers shall receive training in the proper use and safe operation of machinery, equipment and tools they use. Employers shall ensure safety instructions are either displayed/posted near all machinery or are readily accessible to the workers. (S)

Noncompliance

Explanation: 1. Fabric warehouse was observed to have racks with levels approximately 8 feet high. The appropriate ladder/stairs are not provided to workers for bringing fabric rolls up these racks. 1 worker observed hanging from the edge of the rack's second level during monitoring.

2. At least 6 overlock and 5 high-speed button sewing machines observed to be missing eye guards. Additionally, approximately 10% of operators are not using provided eye guards. Approximately 15% of all sewing machines observed to be equipped with inadequate lower pulley guards. The operator side is not protected.

Source: observation

Legal reference: Occupational Health and Safety Standards, Rule 1200 - Machine Guarding (1990) Sec. 1204.01: The point of operation of machinery shall be effectively guarded.

Plan Of Action: Factory will begin to address this issue by teaching workers the appropriate way to access fabrics. Simultaneously, factory will construct the required ladder for workers to access fabric on higher storage levels. Safe behavior and proper use of the new ladder will be covered in the job-specific safety training. Safety training for sewing personnel will specifically emphasize the importance of machine safety guards. Guards will be replaced as quickly as possible (and maintained) by maintenance department.

Replace safety guards: January 2012

Install ladder/stairs: March 2012

Safety Training: April-June 2012

Deadline 03/31/2012
Date:

Action
Taken:

Plan No
Complete:

Plan
Complete
Date:

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: Workers in warehouse, packing and loading sections are not trained in proper lifting techniques.

Sources: worker and management interviews, document review

Plan Of Factory will begin conducting job-specific safety training based on the results of the risk
Action: assessments. In the warehouse, packing, and loading areas, this will include proper lifting techniques. The safety officer will be responsible for the execution of this training.

Deadline 04/30/2012
Date:

Action
Taken:

Plan No
Complete:

Plan
Complete
Date:

Hours of Work: Time Recording System

HOW.6 Time worked by all workers, regardless of compensation system, shall be fully documented by time cards or other accurate and reliable recording systems such as electronic swipe cards. Employers are prohibited from maintaining multiple time-keeping systems and/or false records for any fraudulent reason, such as to falsely demonstrate working hours. Time records maintained shall be authentic and accurate. (P)

Noncompliance

Explanation: Factory does not maintain time records for all 57 workers paid on piece rate basis. Management reported that these workers are paid according to their production output; subsequently, strict work hours monitoring and recording are not implemented. Due to this, actual worked hours for these workers could not be accurately assessed.

Sources: Worker and management interviews, document review

Legal reference: Omnibus Rules Implementing the Labor Code (1989), Book III Rule X, Sec. 7: Every employer shall keep an individual time record of all employees bearing signature/thumbprint of employee concerned for each daily entry, by means of any of the following methods: a) use of Bundy clock, where an employee can punch in arrival/departure times on their individual card; b) through employment of a timekeeper, whose duty is to time every employee in/out in a record book; and c) by furnishing employees individually with a daily time record form where they can mark arrival and departure times.

Plan Of Action: Factory understands the importance of recording work hours, especially in absence of a DOLE approved TMS for piece rate workers. Factory will begin manual time recording for these workers by a timekeeper, while assessing the viability of adding them to the timecard system. The importance of time recording will also be stressed to workers when explaining quota and piece rate. Additionally, workers will regularly acknowledge their hours worked and pieces produced.

Record hours: January 2012

Training: Immediately and upon DOLE approval



Deadline 01/31/2012
Date:

Action
Taken:

Plan No
Complete:

Plan
Complete
Date:
