



មជ្ឈមណ្ឌលអប់រំច្បាប់សម្រាប់សហគមន៍ COMMUNITY LEGAL EDUCATION CENTER

ទីស្នាក់ការកណ្តាល ២៣៧ ផ្លូវលំក្រុម ១៦ ភូមិថ្មី សង្កាត់ដង្កោ ខណ្ឌដង្កោ រាជធានីភ្នំពេញ ទូរស័ព្ទ: ០៩៣ ២១៥ ៥៩០ ទូរស័ព្ទ/ទូរសារ: ០៩៣ ២១១ ៧២៣ ប្រអប់ប្រៃសណីយ៍ ១១២០ ភ្នំពេញ
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Sent via Email
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Date: 18 August, 2015

Subject: Lawyers Seeking Clarifications Re: Violations of Freedom of Association at C&A Supplier, Cambodia

Dear Mr. Peter Wan,

We write to you regarding the conduct of C&A supplier, Ginwin Industry (Cambodia) Co., Ltd.

The factory in question is located within the Industrial Park 7 NG, National Road No: 8, Vihearsour Village, Vihearsuo Commune, Ksachkandal District, Kandal Province, Cambodia.

We bring to your attention the recent dismissal of five trade union leaders of the Cambodian Union Movement of Workers (CUMW) at this factory. We bring to your attention that these are illegal terminations given the protections under Article 12 of the Cambodian *Labor Law* (1997) and *PRAKAS 305/01* which extend to:

- "Founding members of a union and those who join a union during the application period for its registration, starting from the date of application and continuing for 30 days after the date when the union is registered with the Ministry in charge of Labor;" and
- "Employers are forbidden to take into consideration union affiliation or participation in union activities when making decisions concerning recruitment, management and assignment of work, promotion, remuneration and granting of benefits, disciplinary measures and dismissal."

As such, this is a contravention of C&A's Code of Conduct which provides that:

"[C&A] recognize and respect the freedom of employees to choose whether or not to associate with any group of their own choosing, as long as such groups are legal in their own country. Suppliers must not prevent or obstruct such legitimate activity."

The Cambodian Union Movement of Workers (CUMW) held a union election at Ginwin on 12 October 2014. In accordance with the Cambodian legal procedures, the factory management was duly informed on 16 October 2014. Please see the attached notification.

Following the notification, union candidates and local union officers were consistently harassed by Chinese supervisors and hired security in an attempt to get them to cease their union activities within the enterprise, and to participate in the company union. This also includes an alleged threat at gunpoint from a Chinese maintenance supervisor, Mr. Chay Siew Hua, also known as Mr. Chay Young Hua which occurred on 12 November 2014.

Despite the harassment, union leaders continued to represent and collectively bargain on behalf of their members. In doing so CUMW commenced a strike to bargain for increased benefits on 11 December 2014.

After one week of striking, the employer approached the court. Termination and suspension notices for the following CUMW union leaders were delivered to the court by the employer:

1. Mr. Kang Rithyvuth, CUMW union president;
2. Mr. Yem Vanna, CUMW union vice president;
3. Mrs. Soy Sros, CUMW union treasurer;
4. Mr. Sreng Vanny, CUMW union secretary; and
5. Mr. Meng Len, CUMW union deputy secretary.

The court issued an injunction for all striking workers to return to work, effective 18 December 2014.

The injunction notice was posted on the factory gate which made reference to the termination and suspension of the above mentioned individuals. Upon returning to work on 18 December 2014, the five union leaders were not permitted access into the factory.

Termination of strikers is only permitted for serious misconduct which occurs when a striking worker is violent or fails to return to work within 48 hours of a court injunction, as per Articles 336 and 337 of the Cambodian *Labor Law* (1997).

This termination is in direct response to the union exercising its legally mandated right to strike, does not meet the definition of serious misconduct, and as such is illegal.

We are requesting your intervention for the immediate reinstatement of the above mentioned individuals with back pay as required by the Cambodian *Labor Law* (1997) and *PRAKAS 305/01*.

Further, we are requesting your immediate intervention for the termination of Chinese maintenance supervisor, Mr. Chay Siew Hua, also known as Mr. Chay Young Hua, to ensure the safety of workers and to end threats to personal safety of independent union leaders.

Given the blatant nature of the discrimination, we bring to your attention the above mentioned violations are potentially subject to a fine of sixty one to ninety days of the base daily wage and to imprisonment of six days to one month, or to one of the both penalties, as per Article 373 of the *Labor Law* (1997).

Further, we will be investigating potential criminal charges against Mr. Chay Siew Hua.

We would prefer to resolve this quickly and amicably but may be forced to take measures to protect the interests of our clients.

Please advise.

Regards,



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