



**COMPANIES: Evergreen Enterprises Inc.**

**COUNTRY: China**

**ASSESSMENT DATE: 8/29/2018**

**ASSESSOR: Openview**

**PRODUCTS: Collectibles**

**NUMBER OF WORKERS: 160**

# Summary of Code Violations

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

## Findings and Action Plans

### FINDING NO.1

#### Sustainable Improvement Required

**FINDING TYPE:** Recruitment, Hiring & Personnel Development

##### Finding Explanation

1. The factory has not hired any disabled workers, which is a violation of legal requirements that state at least 1.5% of the total workforce should be composed of disabled workers. Nor does the factory contribute to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law. [ER.3, ND.2]
2. None of positions has written job description in the factory. [ER.1.1]
3. The factory does not clearly define the responsible/ accountable person(s) in writing for the following Employment Functions: Recruitment, Hiring & Personnel Development; Hours of Work; Industrial Relations; Grievance System; Workplace Conduct & Discipline and Termination & Retrenchment. [ER.1]

##### Local Law or Code Requirement

Regulation on the Employment of the Disabled, Articles 8 and 9. FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.3; Nondiscrimination Benchmark ND.2)

### FINDING NO.2

#### IMMEDIATE ACTION REQUIRED

**FINDING TYPE:** Compensation

##### Finding Explanation

1. Based on review of social insurance payments from July 2017 to August 2018, and interviews, the factory does not provide sufficient social insurance with five types to all employees. There are total 177 employees in the factory (including 8 newly hired employees) in August 2018, all 169 eligible employees (100%) were provided with work-related injury insurance, however only 80 out of 169 eligible employees (47%) were provided with pension insurance, only 55 out of 169 eligible employees (33%) were provided with medical insurance, only 48 out of 169 eligible employees (28%) were provided with maternity insurance and no employee (0%) was provided with unemployment insurance. [ER.22.1, C.10.1]
2. The contribution base of the four types of social insurance (including work-related injury, pension, medical and maternity insurance) is not in line with legal requirements. The contribution is based on the local minimum requirement of CNY 2,807 (USD 413) instead of based on an employee's actual monthly wage (about 80% of employees' wage range is between CNY 3,000 (USD 441) to CNY 4,000 (USD 588) per month). [ER.22.1, C.10.1]
3. The factory does not contribute to the legally required Housing Provident Fund for any workers. [ER.22, C.1, C.10]

##### Local Law or Code Requirement

China Labor Law, Articles 72 and 73; Social Insurance Law of the PRC, Articles 12 and 58; Regulations on Management of Housing Provident Fund, Articles 2, 3 and 15. FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmarks C.1 and C.10)

##### Recommendations for Immediate Action

1. Provide all employees with all legally required social insurances including work-related injury insurance, pension insurance, medical insurance, maternity insurance and unemployment insurance.
2. Calculate social insurance contribution based on employees' actual monthly wages.
3. Provide Housing Provident Fund for all workers.

## **FINDING NO.3**

### **IMMEDIATE ACTION REQUIRED**

#### **FINDING TYPE: Hours of Work**

##### **Finding Explanation**

1. According to the time records for the period from July 2017 to August 29, 2018 and worker interviews, 90% of sampled workers' monthly overtime hours exceed 36 hours per month in the reviewed period, with a maximum of 60 hours in June 2018. [HOW.1.1]
2. The factory production plan is calculated based on working 48 hours weekly. Factory management sets production targets, piece rates, or any other incentive or production system at a level such that workers need to work 8 overtime hours per week. [HOW.8.1]
3. Based on document review and interviews with workers and management, the factory has not conducted an analysis of regular working hours with the aim to progressively reduce excessive hours of work. [HOW.1.2]

##### **Local Law or Code Requirement**

China Labor Law, Article 41. FLA Workplace Code (Hours of Work Benchmarks HOW.1 and HOW.8)

##### **Recommendations for Immediate Action**

1. Ensure workers do not work more than the legal limit of 36 hours of overtime per month.

## **FINDING NO.4**

### **Sustainable Improvement Required**

#### **FINDING TYPE: Industrial Relations**

##### **Finding Explanation**

1. FLA Comments: The Chinese constitution guarantees Freedom of Association; 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 International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, 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. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 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. It also grants the trade union an enhanced role in dispute resolution. In December 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. [FOA.2]

##### **Local Law or Code Requirement**

FLA Workplace Code (Freedom of Association Benchmark FOA.2)

## **FINDING NO.5**

### **Sustainable Improvement Required**

#### **FINDING TYPE: Workplace Conduct & Discipline**

### **Finding Explanation**

1. The factory's disciplinary system does not cover a process having a third-party witness during imposition and a worker appeal process. [ER.27.4]
2. Workers do not receive a copy of the workplace rules during orientation or written documentation that substantiates all the issues covered in orientation. [ER.15.3]

### **Local Law or Code Requirement**

FLA Workplace Code (Employment Relationship Benchmarks ER.15 and ER.27)

## **FINDING NO.6**

### **IMMEDIATE ACTION REQUIRED**

#### **FINDING TYPE: Health and Safety**

### **Finding Explanation**

1. The factory production buildings were completed in 2004 and 2008, however the factory has not conducted legally required pre-assessment of occupational disease hazards, assessment of effects of occupational disease hazards control and assessment of current condition of occupational disease hazards so far. [HSE.1]
2. There is no fire risk assessment conducted by a third-party expert in the factory. [ER.31.2]
3. The factory does not use positive incentive to ensure that workers use machinery and tools safely. [HSE.15]
4. The factory does not provide adjustable chairs for sitting workers and there are no removable armrests or proper backrests on chairs. There are no anti-fatigue mats provided for workers who work in a standing position. The factory does not take steps to reduce repetitive-motion stress/ injuries. [HSE.17.1]
5. The factory does not have any guidance documents for external contractors/ service providers concerning health and safety. [ER.31.1]
6. Traffic lanes and walking paths are not marked on the factory premises. The factory has neither assessed nor adopted any visual management aids to ensure that workers use safe driving practices on factory premises, such as indicators, convex mirrors on blunt ends, reflectors etc. [HSE.5.1]
7. The factory canteen does not keep food sample as per law. [HSE.1, HSE.22.1]

### **Local Law or Code Requirement**

The China Law of Prevention and Control of Occupational Diseases, Articles 17 and 18; Provisions on the Supervision and Administration of Occupational Health at Work Sites, Article 20; Food Safety Operation Specifications for Catering Service, Article 7.9.2. FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety & Environment Benchmarks HSE.1, HSE.5, HSE.15, HSE.17 and HSE.22)

### **Recommendations for Immediate Action**

1. Conduct fire risk assessment by a third-party expert in the factory.
2. Provide adjustable chairs with removable armrests and backrests for sitting workers and provide anti-fatigue mats for standing workers.
3. Mark traffic lanes and walking paths on the factory premises.
4. Keep food sample per legal requirement of more than 48 hours and the amount of sample for each variety should be no less than 125g.

## **FINDING NO.7**

### **Immediate Action Required**

#### **FINDING TYPE: Health & Safety**

### **Finding Explanation**

1. The fire brigade does not have the appropriate Personal Protective Equipment (PPE) to fight fires, such as a breathing apparatus. [HSE.6.1]
2. Materials and goods in warehouses are stored against walls and poles. [HSE.1]
3. 30% of electrical panels throughout the factory facilities are not installed with covers. [HSE.13]
4. The cook does not wear uniform and cap during the work. [HSE.22.1]
5. Smoke detectors are installed vertically in material and finished goods warehouses, which carries the risk of that detectors cannot perceive sensitively and cover all the related area in case of fire or smoke. [HSE.1]
6. The factory does not track and conduct statistical analysis for workers' illnesses. [HSE.3.2]

7. The factory does not conduct occupational hazards test as per law. [HSE.1]
8. The factory does not perform an asbestos exposure assessment. [ER.31.1, HSE.1]

#### **Local Law or Code Requirement**

Rules for Warehouse Fire Prevention Safety Management, Article 18; Electricity Safety Guidelines, Article 5.1.1; Law of the China on the Food Safety, Article 27; Code for Design of Automatic Fire Alarm System Detector, Article 6.2.11; Provisions on the Supervision and Administration of Occupational Health at Work Sites, Article 20. FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety & Environment Benchmarks HSE.1, HSE.3, HSE.6, HSE.13 and HSE.22)

#### **Recommendations for Immediate Action**

1. Provide appropriate personal protective equipment (PPE) for the fire brigade to fight fires.
2. Maintain space between stacks and walls at least 0.5 meter, stacks and poles at least 0.3 meter.
3. Install covers for all electrical panels.
4. Provide uniform and cap to the cook and monitor her to wear during work.
5. Install smoke detectors horizontally.
6. Track and conduct statistical analysis for workers' illnesses.
7. Conduct occupational hazards test once a year.

## **FINDING NO.8**

### **Immediate Action Required**

**FINDING TYPE:** Review Process

#### **Finding Explanation**

1. The toilets are not sufficiently clean and have a bad smell. Additionally, no private doors are provided for the toilets. [HSE.19, HSE.20]
2. Drinking water is placed on the working stations where chemicals are used at glazing and coloring areas, which carries the risk of mixing the chemical bottle with drinking water bottle, and chemical splash into the drinking water. [HSE.23.1]
3. Drinking water bottles are used as chemical dispensing containers in working areas. No safety labels are posted on any chemical containers. [HSE.9.1]
4. No secondary containment is provided for any chemical containers in working areas and color mixing area. [HSE.9.1]
5. No Material Safety Data Sheet (MSDS) is posted in working areas and color mixing area where chemicals are being used. [HSE.10]
6. There are at least seven kinds of chemicals used in the factory, but only two chemicals are listed in the inventory and provided with MSDS. The content of the inventory is missing varieties, volume of production and application, sales whereabouts, sources of supply, etc. [HSE.10]
7. There is a simple pressure vessel in the factory. The operator does not obtain pressure vessel operator certificate. [HSE.4]
8. There is no inspection conducted for the pressure gage and safety valve of the simple pressure vessel. [HSE.13]

#### **Local Law or Code Requirement**

Hygienic standards for the Design of Industrial Enterprises, Articles 7.1.1, 7.1.2 and 7.3.4; Regulation of Chemical Safety Usage in Workplace, Article 12; Regulation for Safety of Dangerous Chemical, Article 20; General Standard for Safety Standardization for Hazardous Chemical Industry Entities, Article 5.7.1; Safety Production Law, Article 27; Special Appliance Quality Safety Monitoring Regulation, Article 28. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.4, HSE.9, HSE.10, HSE.13, HSE.19, HSE.20 and HSE.23)

#### **Recommendations for Immediate Action**

1. Keep the toilets clean and install private doors for all toilets.
2. Place drinking water away from chemicals.
3. Keep chemicals in proper containers and post safety labels on all chemical containers.
4. Provide secondary containment for all chemical containers.
5. Post MSDS in working areas and color mixing area where chemicals are used.
6. Establish complete chemical inventory and obtain MSDS for all chemicals.
7. Obtain pressure vessel operator certificate.
8. Conduct inspection for safety valve of the simple pressure vessel periodically and pressure gage of the simple pressure vessel every half year through the authorized company approved by State Administration of Work Safety.

## FINDING NO.9

### SUSTAINABLE IMPROVEMENT REQUIRED

**FINDING TYPE:** Training (Macro)

**Finding Explanation**

1. The specific training for managers and supervisors is missing below Employment Functions: Recruitment, Hiring & Personnel Development, Industrial Relations, Grievance System and Termination & Retrenchment. [ER.17.1, ER.17.2, ER.27.2]
2. The ongoing training for employees is missing below Employment Functions: Recruitment, Hiring & Personnel Development, Industrial Relations, Grievance System and Termination & Retrenchment. [ER.1.2, ER.15.2, ER.17.3]
3. The factory does not provide proper lifting techniques training to the workers. [HSE.17.2]
4. No orientation training is provided to new employees on Industrial Relations and Termination & Retrenchment. [ER.1.2, ER.15.1]

**Local Law or Code Requirement**

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, ER.17 and ER.27; Health, Safety & Environment Benchmark HSE.17)

## FINDING NO.10

### SUSTAINABLE IMPROVEMENT REQUIRED

**FINDING TYPE:** Review Process (Macro)

**Finding Explanation**

1. The factory does not periodically review and update the policies and procedures on Recruitment, Hiring & Personnel Development; Compensation; Hours of Work; Industrial Relations; Grievance System; Workplace Conduct & Discipline and Termination & Retrenchment. [ER.1.3, ER.30.2]

**Local Law or Code Requirement**

FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.30)

## FINDING NO.11

### SUSTAINABLE IMPROVEMENT REQUIRED

**FINDING TYPE:** Communication & Worker Involvement (Macro)

**Finding Explanation**

1. The worker integration component is missing across all Employment Functions: Recruitment, Hiring & Personnel Development; Compensation; Hours of Work; Industrial Relations; Grievance System; Workplace Conduct & Discipline; Termination & Retrenchment; Environmental Protection and Health & Safety. This indicates that the factory has not established procedures to request and/ or receive workers' input/ feedback regarding the creation, implementation, and updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes. [ER.1, ER.25]

**Local Law or Code Requirement**

FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.25)

## FINDING NO.12

### NOTEABLE FEATURE

**FINDING TYPE:** Compensation

#### Finding Explanation

1. The factory provides free meals to employees per day.

## FINDING NO.13

### SUSTAINABLE IMPROVEMENT REQUIRED

**FINDING TYPE:** Policies & Procedures (Macro)

#### Finding Explanation

1. The factory does not have written policies or procedures on Personnel Development, including: a) a policy on performance reviews that includes steps and processes, demonstrates linkages to job grading, prohibits discrimination, provides written feedback, and complies with legal requirements; b) policies and procedures that encourage ongoing training of all categories of workers with the goal of raising or broadening skills in order to advance in their careers within the factory and beyond, and; c) policies and procedures with regard to promotion, demotion, and job reassignment that outline the criteria for promotion, demotion, and job reassignment scheme, demonstrate linkages to job grading, and prohibit discrimination or use of demotion or job reassignment as a form of penalty or punishment. [ER.1, ER.28.1, ER.29 , ER.30]
2. The factory does not have written policies and procedures governing any aspect of retrenchment. [ER.1.1, ER.32.1 ]
3. There are no policies and procedures regarding Industrial Relations in the factory. [ER.26, FOA.1 ]
4. Health and safety policies and procedures are missing following information:
  - 1) Tagout-logout procedures including a list of equipment and/ or machines that require lockout-tagout in the factory;
  - 2) Standard Operating Procedures (SOPs) for each job with a focus on performing the job safely;
  - 3) Steps for workers to raise health and safety concerns;
  - 4) Protection against retaliation for workers who raise health and safety concerns;
  - 5) For emergency procedures; steps on how to ensure that all visitors, contractors, service providers safely evacuated and steps for reporting death, injury, illness, and other health and safety issues;
  - 6) For fire preparedness procedures; what workers should do in case of injury, phone numbers for medical assistance and steps for reporting death, injury, illness, and other health and safety issues. [ER.31, HSE.14 ]
5. The factory does not have procedures enable workers to raise and report environmental concerns as well as procedures to protect workers who allege environmental violations. [ER.31.2.4, ER.31.2.6 ]

#### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.26, ER.28, ER.29, ER.30, ER.31 and ER.32; Freedom of Association Benchmark FOA.1; Health, Safety & Environment Benchmark HSE.14)