



COMPANIES: MBI, Inc.

COUNTRY: China

ASSESSMENT DATE: 06/19/19

ASSESSOR: Openview

PRODUCTS: Jewelry [including watches]

NUMBER OF WORKERS: 215

## FLA Comments

This report was submitted to the FLA and the FLA affiliated company by the assessor. Despite deadline reminders and extensions for submission of a corrective action plan, the FLA has not received a plan to address the risks and noncompliances raised in the report. Therefore, the report is posted in its current state and will be updated once a corrective action plan has been submitted to and reviewed by the FLA.

## 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.

FLA Code Element	Number of Violations
Hours of Work	1
Employment Relationship	4
Health, Safety, and Environment	8
Freedom of Association	2

## 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 in violation of legal requirements that state at least 1.5% of the total workforce should be composed of disabled workers. Although the factory contributes to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law, this practice carries the risk of discrimination based on FLA Workplace Code and Benchmarks. [ND.2]

2. The factory does not conduct performance reviews for any worker during the last two years although the factory has written policies and procedures outlining the process for performance reviews. [ER.29.1]

##### Local Law or Code Requirement

Regulation on the Employment of the Disabled, Articles 8 and 9. FLA Workplace Code (Non-discrimination Benchmark ND.2; Employment Relationship Benchmark ER.29)

### FINDING NO.2

#### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Hours of Work

##### Finding Explanation

1. In January 2019 there was one instance of the factory not providing one rest day in every seven day period; 20 out of 150 workers (about 14% of total workforce) worked nine days consecutively from January 21 to 29, 2019. [HOW.2]

##### Local Law or Code Requirement

Labor Law of the People's Republic of China, Article 38. FLA Workplace Code (Hours of Work Benchmark HOW.2)

#### Recommendations for Immediate Action

1. Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day working period.

### FINDING NO.3

#### SUSTAINABLE IMPROVEMENT REQUIRED

##### FINDING TYPE: Industrial Relations

#### Finding Explanation

1. The union chairman is the top manager at the factory. [FOA.11]
2. None of workers are provided with a copy of the Collective Bargaining Agreement (CBA) and none of the interviewed workers are aware of the CBA. [ER.16.2]
3. The factory pays the union dues instead of the workers. [FOA.11]
4. FLA Comment: 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 Benchmarks FOA.2 and FOA.11; Employment Relationship Benchmark ER.16)

### FINDING NO.4

#### IMMEDIATE ACTION REQUIRED

##### FINDING TYPE: Health & Safety

#### Finding Explanation

1. The factory has not had a pre-assessment of occupational disease hazards, an assessment of effects of occupational disease hazards control, or an assessment of current condition of occupational disease hazards for production buildings constructed in 2004. [HSE.4]
2. The factory does not periodically test the lightning protection system in production building, office building and dormitory building. [HSE.13]
3. The traffic lanes and walk paths are not clearly marked in the factory compound. In addition, there are no visual management measures such as indicators, convex mirrors, or reflectors to ensure safe driving on the factory premises. [HSE.1]
4. The factory did not maintain any documentation records such as fire drill plan or summary for the one fire drill conducted in the dormitory area in the past twelve months. Only fire drill photos were maintained. [HSE 5]

#### Local Law or Code Requirement

Law of the People's Republic of China on the Prevention and Control of Occupational Diseases Article 17 and 18; Fire Prevention Regulation for Organ, Group and Enterprise Article 40; Technical Specifications for Inspection of Lightning Protection System in Building Article 6. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4, HSE.5 and HSE.13)

#### Recommendations for Immediate Action

1. Contract a qualified company to conduct assessment of occupational disease hazards and post the report in relevant workshops.
2. Test the lightning protection system in all buildings and maintain test reports.

3. Clearly mark the traffic lanes and walk paths.

## FINDING NO.5

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. The factory has two air compressors. However, the operator's certificate expired on January 6, 2018. [HSE.4]
2. The factory uses positive incentive to reward the workers who make contribution to the factory. However, the factory also uses negative measure to discipline workers who violate Health and Safety rules. For example, five points [each point is equivalent to CNY 2.5 (USD 0.36)] are deducted from the performance bonus if workers do not wear personal protective equipment (PPE) during working. And for workers who do not have performance bonus, the factory provides training instead of making the deduction. [HSE.15]
3. The factory has not provided training on lifting techniques to related workers although ergonomics factors are evaluated. [HSE.17.2]

##### Local Law or Code Requirement

Measures for Supervision and Management of the Operating Personnel of Special Equipment Article 22. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.4, HSE.15 and HSE.17)

##### Recommendations for Immediate Action

1. Ensure the air compressor operator certificate is valid.
2. Use positive incentive to ensure workers use machinery, equipment and tools safely and properly.

## FINDING NO.6

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Environmental Protection

##### Finding Explanation

1. The factory runs an electroplating process, and there is electroplating effluent generated. The latest collecting was conducted in December 2018; however, this waste should be disposed of twice annually. Additionally, the contract with the qualified hazardous waste disposal company expired on May 31, 2019. The factory has not contracted any qualified hazardous waste disposal company to dispose of the electroplating effluent as of the assessment. [HSE.1]

##### Local Law or Code Requirement

PRC Law of Prevention and Treatment of Environmental Pollution by Solid Wastes Article 57. FLA Workplace Code (Health, Safety and Environment Benchmark HSE.1)

##### Recommendations for Immediate Action

1. Re-sign contract with a qualified hazardous waste disposal company to dispose of the electroplating effluent according to law requirement.

## FINDING NO.7

### SUSTAINABLE IMPROVEMENT REQUIRED

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

##### Finding Explanation

1. The policies and procedures on Personnel Development do not include demotion or job reassignment. [ER.30.1]
2. Disciplinary procedures do not include workers' rights to have a third-party witness present during imposition of the disciplinary action. [ER.27.4]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.27 and ER.30)

FINDING NO.8

NOTABLE FEATURE

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has obtained ISO14001 and SA8000 certificates, valid through June 7, 2020 and September 9, 2021.