



FAIR LABOR  
ASSOCIATION<sub>®</sub>

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Evergreen Enterprises Inc.

COUNTRY: China

ASSESSMENT DATE: 09/24/20

ASSESSOR: Openview

PRODUCTS: Collectibles [such as figurines, coins, spoons, mugs]

NUMBER OF WORKERS: 230

## 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
Compensation	1
Hours of Work	3
Employment Relationship	4
Health, Safety, and Environment	5
Harassment and Abuse	1
Nondiscrimination	2
Freedom of Association	2

## Findings and Action Plans

### FINDING NO.1

#### IMMEDIATE ACTION REQUIRED

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

##### Finding Explanation

1. The factory does not specify the job location accurately in employment contracts. The actual address of the factory is No.1 of Building 6#, No. 18-1 Nanhai Road, Xinqi Street, Beilun District, while the job location specified in those employment contracts is Beilun District. All workers are affected. [ER.10.1]

##### Local Law or Code Requirement

The China Labor Law, Article 17. FLA Workplace Code (Employment Relationship Benchmark ER.10)

##### Recommendations for Immediate Action

1. <!--[endif]-->Sign a revised employment contract with all workers and specify the accurate job location.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Sign a revised employment contract with all workers and specify the accurate job location.

#### Company Action Plan Update

HR department corrected the job location and described the detailed location in the employment contract and re-signed the contract with employees. Pls kindly check the attached sampled re-signed employment contract.

## FINDING NO.2

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

##### Finding Explanation

1. The factory does not take workers' external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by law. [C.6, HOW.11]
2. The factory does not provide social insurance to all eligible workers. There are 130 workers in the factory, including nine retired but re-recruited workers. According to the social insurance receipt and name list for August 2020, 117 out of 121 eligible workers (97%) were provided with pension, unemployment, medical, maternity, and work-related injury insurance. As a supplement, the factory has bought group accidental injury insurance for 45 workers, which is valid from October 18, 2019 to October 17, 2020 and has a maximum benefit amount of CNY 200,000 (USD 29,300) per worker. [C.1]
3. The contribution base of the five types of social insurance is not in line with the legal requirement. The factory contributes to work-related injury, medical, maternity, unemployment, and pension insurance based on the local minimum requirement of CNY 3,815 (USD 559) per month. This is not in line with the legal requirement of a contribution based on the worker's average monthly wage of the previous year. All workers' average monthly wages of the previous year were higher than the local minimum contribution base, ranging from CNY 4,500 (USD 660) to CNY 8,000 (USD 1,173). [C.10.1]
4. The factory does not contribute to the legally required Housing Provident Fund for any of the 121 eligible workers. [ER.22.1]

##### Local Law or Code Requirement

China Social Insurance Law, Article 72; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15. FLA Workplace Code (Compensation Benchmarks C.1, C.6 and C.10; Employment Relationship Benchmark ER.22; Hours of Work Benchmark HOW.11)

##### Recommendations for Immediate Action

1. Calculate annual leave based on worker's cumulative working experience (working age).
2. Provide social insurance to all eligible workers.
3. Contribute to social insurance based on worker's average monthly wage of the previous year.
4. Provide all workers with the legally required Housing Provident Fund.

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

Calculate annual leave based on worker's cumulative working experience (working age).

Provide social insurance to all eligible workers.

Contribute to social insurance based on worker's average monthly wage of the previous year.

Provide all workers with the legally required Housing Provident Fund.

##### Company Action Plan Update

1.HR department calculated worker's cumulative working experience (working age) according their social insurance contributions and their annual leaves were be completed and paid their annual leave allowance according to their three times salary. Pls kindly check the attached evidence.

2. The factory pay the social insurance to all eligible workers except exceeding retirement age. Pls kindly check the attached evidence, added 3 employees who were not paid the social insurance before.
3. The factory can't reach to pay the social insurance based on worker's average monthly wage of the previous year now. Because the cost will be very high and it's a big burden for the factory now, and the local government allow the companies to pay the social insurance according to the the lowest standard. The factory will plan to consider it in 2021.
4. The factory had paid the housing provident fund to all the eligible workers except re-employed retired workers. pls kindly check the attached evidence.

## FINDING NO.3

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Hours of Work

##### Finding Explanation

1. Overtime hours exceed the legal limit of 36 hours per month. Time records for the period from July 2019 to September 23, 2020 and worker interviews indicate that about 80% of workers' monthly overtime hours exceeded 36 hours in all reviewed months, with a maximum of 79 overtime hours in November 2019. [HOW.1.1, HOW.8]
2. The factory sets the production plan based on 48 to 57 hours per week (up to three overtime hours per day on up to three workdays and eight overtime hours on Saturday). Factory management sets production targets and production system at a level that workers need to work eight to seventeen overtime hours per week. [ER.24]

##### Local Law or Code Requirement

The China Labor Law, Article 41. FLA Workplace Code (Hours of Work Benchmark HOW.1 and HOW.8; Employment Relationship Benchmark ER.24)

##### Recommendations for Immediate Action

1. Ensure overtime hours do not exceed the legal limit of 36 hours per month.
2. Set the production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
3. Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should:
  - 1) Implement FLA Principles of Fair Labor and Responsible Sourcing and
  - 2) Accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:
    - a. How to provide better order forecasts to the factories;
    - b. Possible workshops/consultancy for the factory on how to improve productivity/quality;
    - c. Clear guidelines on how to extend shipment deadlines in case of contingencies;
    - d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams);

e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;

f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Ensure overtime hours do not exceed the legal limit of 36 hours per month.

Set the production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.

Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should:

1) Implement FLA Principles of Fair Labor and Responsible Sourcing and

2) Accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:

a. How to provide better order forecasts to the factories;

b. Possible workshops/consultancy for the factory on how to improve productivity/quality;

c. Clear guidelines on how to extend shipment deadlines in case of contingencies;

d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams);

e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;

f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

#### Company Action Plan Update

1. The factory has complied with the China labor law from October of 2020. pls kindly check the attached sampled workers attendance records and salary from Oct. to Nov.

2. In order to reduce workers' overtime and meet to the regulation of China labor law, the factory took the following action:

1) making the recruiting plan and increasing the workers according to production plan;

2) Training the workers' technical abilities and improving their working productivity;

3) asked the production plan department to arrange the capacity reasonably and the business department to accept the orders according to the production capacity;

4) HR department collected workers overtime daily to ensure their overtime to meet the legal requirement.

Pls kindly check the attached evidences.

## FINDING NO.4

### SUSTAINABLE IMPROVEMENT REQUIRED

#### FINDING TYPE: Industrial Relations

##### Finding Explanation

1. All five union committee members are department managers and supervisors. They are appointed by top factory management and Federation of Trade Unions. [FOA.11]
2. The Collective Bargaining Agreement (CBA) does not provide any additional benefits to workers and simply restates the factory procedures and legal requirements. None of workers are provided with a copy of the CBA and none of the interviewed workers are aware of the CBA. [ER.16.2]
3. 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, FOA.10]

##### Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2, FOA.10 and FOA.11, Employment Relationship Benchmark ER.16)

##### Recommendations for Immediate Action

- 1.Ensure all union committee members are freely elected by all workers.
2. Provide a copy of the CBA to each worker.

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

1. Ensure all union committee members are freely elected by all workers.
2. Provide a copy of the CBA to each worker.

##### Company Action Plan Update

- 1.The union committee of the factory re-election the members, and all of members are from the workers. Pls kindly check the attached
2. The factory signed CBA with each worker, pls kindly check the sampled CBA.

## FINDING NO.5

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Workplace Conduct & Discipline

##### Finding Explanation

1. The factory posts warning letters on the bulletin board with the names of sanctioned workers for late arrivals to or early departures from work. [H/A.6]

##### Local Law or Code Requirement

FLA Workplace Code (Harassment or Abuse Benchmark H/A.6)

##### Recommendations for Immediate Action

- . Stop the practice of posting names of sanctioned workers on the bulletin board.

### COMPANY ACTION PLANS

#### Action Plan no 1.

##### Description

Stop the practice of posting names of sanctioned workers on the bulletin board.

##### Company Action Plan Update

The factory had corrected this finding, pls kindly check the attached evidence.

## FINDING NO.6

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. The factory has never conducted an inspection for the lightning protection system in production buildings. [HSE.13]
2. The factory does not provide the post-job occupational health examination which is on a sampling basis to eligible workers. Workers have the option to do the health check. The factory provides voluntary waivers of the post-job occupational health examination signed by all eligible resigned workers, indicating that they are unwilling to take the post-job occupational health examination and willing to bear all the consequences arising from the abandonment of the examination. [HSE.1]
3. The factory has not conducted the pre-assessment of occupational disease hazards, assessment of the effects of occupational disease hazards or assessment of current conditions of occupational disease hazards since construction was completed in 2005. [HSE.4]

##### Local Law or Code Requirement

Technical Specifications for Inspection of Lightning Protection System in Building, Article 6; The China Law of Prevention and Control of Occupational Diseases, Article 17, Article 18 and Article 35. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4 and HSE.13)

##### Recommendations for Immediate Action

1. Conduct an annual inspection on the lightning protection system and maintain the inspection reports.
2. Provide the post-job occupational health examination to all eligible workers.

3. Conduct the assessment of current conditions of occupational disease hazards as per legal requirement.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Conduct an annual inspection on the lightning protection system and maintain the inspection reports.

Provide the post-job occupational health examination to all eligible workers.

Conduct the assessment of current conditions of occupational disease hazards as per legal requirement.

#### Company Action Plan Update

1. The factory let the housing owners conduct the inspection on the lightning protection for our production buildings. We have gotten the report now.
2. HR department came into the examination of post-job occupational health to all eligible resigned workers, pls kindly check the attached evidence.
3. The factory had done the periodic report on occupational disease hazards every year and the report stated that our workshops compliance with national occupational safety requirements. pls kindly check the attached report.