



Setting the Record Straight on Report by ILRF

Posted by Joe Whinney, founder and CEO, Theo Chocolate
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The recent report issued by the ILRF claiming Theo violated labor standards during a Teamsters Local 117 union organizing campaign in 2010 is alarming, especially in light of the fact that Theo is a company established firmly on the principles of social and environmental justice, and fully committed to transparency. It is in the spirit of this transparency that we share our perspective on the claims made in this report in detail. Much of the report is sensational, so I will focus on addressing the allegations that are most serious.

I want to be clear that the accusations contained in this report are false. At no time has Theo fired, discriminated against, or penalized employees based on their activities or preferences around unions. We're steadfastly committed to our employees' rights and Fair Trade principles, and we respect all local and national laws and regulations concerning the treatment of our employees. Discrimination against employees is illegal, and there is a formal grievance process for addressing such claims through the National Labor Relations Board (NLRB). The Teamsters and the ILRF are well versed in this process, yet no complaint has ever been filed with the NLRB despite the fact that these false claims date back to 2010. Both the Institute for Marketecology (IMO) and Green America investigated these claims independently and in great detail at the time, and they determined Theo continued to meet their standards for certification and membership, respectively.

Our employee policies can be found in our handbook, which is provided for all employees and can be reviewed [online](#) as well. Our handbook clearly states that our employees are free to engage in a union organizing campaign at any time if they wish to do so.

It's important to note that ILRF's report methodology is fundamentally flawed. ILRF shared this report with us several months ago in the hopes we would meet its demands in lieu of the report going public. We were clear with Judy Gearhart, executive director of the ILRF, at the time that the report contained false and unfounded allegations. ILRF declined our request to visit our facilities despite being invited to do so on multiple occasions. ILRF also failed to interview a representative sample of our workforce and blatantly ignored detailed information disclosed by Theo management at ILRF's request. Had ILRF conducted solid research, our steadfast commitment to our employees' rights and Fair Trade principles would have been clearly apparent.

ILRF claims employees were injured and subjected to harsh working conditions as a result of increased demand in 2009. These claims are false. In the first quarter of 2009, Theo sales dropped due to the recession, causing a drop in production. At this time all of our executive employees took a 25 percent pay cut and all other salaried staff took a 10 percent pay cut, while hourly staff compensation remained intact. **Executive and salaried employees elected to take pay cuts to ensure no jobs would be lost during the recession, and that hourly employees' wages would be protected and maintained at pre-recession levels.** While other companies were laying employees off, Theo managed through the recession without a single employee losing their job.

Our sales increased modestly over the remainder of 2009 due to the launch of a new product line. Employees injured on the job are encouraged to report their injuries and safety concerns to the Department of Labor and Industries. In all of calendar year 2009, we had one employee report a claim to Department of Labor and Industries (L&I). Under our company policies and U.S.-enforced labor laws, our employees have never been required to work more than 40 hours per week. Overtime has always been optional.

ILRF claims Theo management engaged in anti-organizing actions, such as denial of pay raises, threats, and coercion. These claims are false. The voluntary pay cuts taken by Theo executive employees and salaried staff in the first quarter of 2009 remained in effect through 2010 due to the recession. No employees were ever denied pay raises or promotions as a result of their union support. In fact, Theo has a strong track record of promoting from within as we view the company's steady growth as a parallel growth opportunity for our employees. Of note, Mr. Reimer, mentioned in the ILRF report, was in a supervisory role at the time of the Teamsters' efforts at Theo. Ms. Taber's recounting of her treatment is blatantly false and her work history is documented and available to ILRF for review upon Ms. Taber's consent.

There have been no occasions during which Theo managers used coercion techniques or threatened employees for any reason. If these activities had occurred and been observed by or elevated to our leadership, management would have been disciplined in accordance with company policies and U.S.-enforced labor laws.

ILRF claims Theo managers pressured employees to sign a letter stating they did not want to unionize. This claim is false and undermines the voice of Theo employees. The letter cited by ILRF was initiated, drafted, and circulated by Theo employees at their own volition.

The letter clearly states, "Accusations made about Theo's reaction to the proposed introduction of a union are untrue. In reality, a meeting was called and administered by employees and it was made clear that the majority of us were not interested in a Teamsters union. This is the reason Theo currently does not have union representation; most of us didn't want one." The letter continues, "We are distressed and demoralized that a few people are undermining the hard work we put into Theo every day. We feel very strongly this is an excellent place of employment and we don't want to let a few people speak on our behalf." We shared this letter with ILRF, but they elected to ignore it, claiming it was authored and distributed by management. In fact, many of the employees who authored and/or signed this document are still employed by Theo today, and have expressed their anger and frustration that the ILRF would presume to undermine them in this way. We are confident this would have become clear to the ILRF had they conducted a legitimate investigation.

ILRF claims Theo fired employee Mackenzie Jahnke with no cause, just a few weeks after she received a positive evaluation. These claims are false. Theo management had no visibility into Ms. Jahnke's views about union organizing because management did not discuss views on the topic with individual employees at any time. Ms. Jahnke was given notice long before her termination that her part-time role was going to be transitioned into a full-time position as we reorganized our marketing and fulfillment function to meet growing demand. Ms. Jahnke performed her job responsibilities outside of normal business hours for a period of several years as the company accommodated her needs as a working student. As the company's needs evolved, we discussed the need to have someone in an expanded version of her role, which included customer service for our web sales, present during normal business hours and shared our plan for transitioning her role as we approached our busy holiday season. Ms. Jahnke was given a positive review and offered the opportunity to apply for this newly

created role, and she did not elect to do so. This transition and her separation process are documented and available to ILRF for review upon Ms. Jahnke's consent. Both IMO and Green America investigated this matter thoroughly during their audits.

ILRF claims Theo hired American Consulting Group (ACG) as part of a union-busting strategy. These claims are false. Many employees expressed concern that they were getting biased information from the union organizers and requested that management provide a resource for information about unions and the Teamsters, separate from the information that was being provided by the Teamsters themselves. Theo management consulted with labor attorneys on appropriate action in this situation within established labor laws, and was advised that providing an educational resource for our team was the correct action to take.

In response to these requests we hired a consultant, David Acosta, a former union organizer, to respond to employee questions, to gather anonymous feedback from employees about the Theo workplace and employees' own experiences; and to provide recommendations to management for workplace improvements. We made Mr. Acosta available to all employees through voluntary meetings; no employees were required or pressured to attend. Mr. Acosta was instructed to only answer questions asked by employees based on his own knowledge and experience. We have no visibility into whether Mr. Acosta has ever been affiliated with ACG.

We understand ILRF's mandate is for Theo to adopt the recommendations it has laid out in its report. In fact, we can confirm ILRF's first three recommendations are and always have been in place at Theo. As is mentioned above, we respect all local and national laws and regulations concerning the treatment of our employees, as well as the core ILO (International Labour Organization) conventions and the intent of the specific conventions to which ILRF is referring.

Regarding the fourth recommendation in ILRF's report, the option to initiate communication with any employee union belongs solely to our employees and we support their right to do so. It is not our place as an employer to engage the Teamsters on behalf of our workforce. As is mentioned above, at no time has Theo fired or discriminated against employees based on their activities or preferences around unions. Discrimination against employees is illegal and, again, while ILRF's claims date back to 2010, no complaint has ever been filed against Theo with the National Labor Relations Board (NLRB). Because our employees clearly stated their wishes in 2010 when these accusations first arose, we believe action on our part to initiate new communications around this subject nearly three years later would be perceived by our employees as disruptive and disrespectful. If our employees wish to engage in a union organizing campaign, they are free to do so at any time, as is outlined in our <https://www.theochocolate.com/employee-handbook>.

In closing, **Theo has been at the leading edge of efforts to conduct business in a socially and environmentally responsible manner from day one.** We've also been a dedicated advocate of integrity in Fair Trade certifications. We've set out to create a company where our suppliers and employees feel valued and respected – this extends from the communities where our cocoa is sourced to the factory where our chocolate products are manufactured.

Because we control every step in the manufacturing process, we hold ourselves accountable for delivering on this promise. While some Fair Trade labeled brands only seek certification for sourcing components within their supply chains, we've voluntarily taken the extra step to have our entire supply chain – including our own facilities – certified by an objective third party. We chose to work with IMO because of its strong reputation as one of the first and most renowned international agencies for inspection, certification, and quality assurance of sustainable products.

Many of you have come to know and love our company based on our purpose-driven mission. Some of you have made a more personal connection with us through our business relationships and our involvement within our own community or at an event. Others of you may simply enjoy the pleasure of eating our chocolate. I can only ask that you consider ILRF's allegations in the context of our entire track record, and the positive contributions we've made both locally and in the global community we all share. It's simply not within the character of our company to tolerate the mistreatment of our own employees.

Thank you for taking the time to learn about our perspective. We remain firmly committed to our founding principles, we're proud of our accomplishments and our team, and we'll continue to play a leadership role in advocating for fair and sustainable practices across our industry in the future.

Joe Whinney
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