EXPECT MORE

How Target Chooses to Shortchange Minnesota's Communities of Color

A Report by
TakeAction Minnesota
Centro de Trabajadores Unidos en Lucha-CTUL
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ISAIAH
Minnesotans for a Fair Economy

Expect More!

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INTRODUCTION

Target has always been viewed as a leader in Minnesota. A homegrown success story. the company was founded by the esteemed Dayton family over a century ago. Today, Target is the state's fourth largest employer and most recognized, and admired, brand.

And it is a brand that the company takes very seriously. They highlight on a regular basis the contributions they make to the community—in Minnesota, throughout the United States and soon in Canada.

Unfortunately, there is much behind the brand that shoppers don't see. Target isn't a leader in all areas of its business. Indeed, the company could choose to lead in critical ways that would improve not only Minnesota's economy, but the daily lives of thousands of workers in our state – especially lower-wage workers of color. Despite efforts by many community-led organizations to get Target to take the lead on instituting policies that would improve the lives of these communities, Target has chosen not to take that course, refusing to admit anything is wrong. But a great deal is.

In 2011, Target had record profits of almost $3 billion[1]. Although Target CEO Greg Steinhafel received $19.7 million in compensation[2], not all members of the Target Team have shared in the company's prosperity.

Target has a history of hiring janitorial contractors that have been accused of engaging in wage theft, illegally depriving their mostly immigrant workers of millions of dollars in overtime pay. At the same time that Target has used loopholes and offshore tax havens to avoid paying billions of dollars in income taxes, the company has sought and received millions of dollars in taxpayer money through public subsidies. Although these subsidies usually require the recipients to pay their employees a living wage, Target has managed to get exemptions so that it could continue to pay poverty wages. Target has also failed to deliver on its promises to create jobs in exchange for these subsidies.

While Target maintains a public image saying that it is committed to helping strengthen and stabilize the communities in which it does business, the corporation's actions often fail to live up to this image. Even in the face of accusations relating to its treatment of minority applicants and employees, Target has refused to implement common-sense hiring procedures recommended by the Equal Employment Opportunity Commission (EEOC) to ensure that the company's hiring practices do not place a disparate impact on communities of color

There is a tremendous opportunity for Target to have a more diverse workforce -- one that is paid a living wage with safe working conditions which would more honestly align with the company's carefully crafted public image of giving back to the communities it serves.

That choice is in Target's hands. And communities around the state are growing more and more impatient with the corporation's reluctance to seize this opportunity and truly lead.

IS TARGET ALL TALK?

Target says "words are just the beginning"[3] in carrying out its mission and values, but as this report shows, too often when it comes to being a good corporate citizen, words are the only thing communities of color in Minnesota get from Target.

WORKER EXPLOITATION

WHAT TARGET SAYS

"[W]e take significant steps to contract with vendors that will maintain high standards, including the obligation to pay proper wages for all hours worked."[4]

WHAT TARGET DOES

As shown in this report, Target has a history of hiring janitorial contractors that have been charged with engaging in abusive and exploitative practices, such as wage theft -- illegally depriving their mostly immigrant workers of millions of dollars in overtime pay. In the last ten years, Target's largest contractor, Diversified Maintenance, has settled at least nine private lawsuits[5] as well as six investigations by the U.S. Department of Labor (DOL), all alleging violations of minimum wage and overtime laws[6]. A recent lawsuit brought by 12 workers in Minnesota charged that Diversified regularly required employees to work 56-60 hours a week without full overtime pay[7]. That lawsuit was recently settled as a class action for $675,000.

These problems are not limited to just one contractor. In 2010 the Department of Justice uncovered a slavery ring in Pennsylvania where janitors were forced to work 16-hour days for a contractor cleaning Target and other stores[8]. In 2009 Prestige Maintenance, which cleaned Target stores in Maryland, agreed to pay its workers up to $3.8 million in damages and unpaid wages[9]. Target continues to contract with Prestige and many other contractors that do not pay their workers a living wage[10].

RACIAL DISCRIMINATION IN HIRING

WHAT TARGET SAYS

Target states that "[d]iscrimination is strictly prohibited and will not be tolerated,"[11] that the company has a "long standing commitment to equal opportunity," and that the company's policies and practices "affirmatively promote equal employment opportunities for people of color . . . ."[12]

WHAT TARGET DOES

The U.S. Equal Employment Opportunity Commission (EEOC) has brought two racial discrimination lawsuits against Target. In Wisconsin, Target paid $510,000 to four African-Americans whom the EEOC alleged were denied store manager jobs based on their race[13]. In Pennsylvania, Target paid $775,000 to settle charges that it created a racially hostile work environment[14].

Almost twenty percent of African-Americans in the Twin Cities are unemployed. This means that African-Americans are three times more likely than whites in the Twin Cities to be unemployed, the worst racial disparity in the country[15]. Target contributes to this gap by refusing to adopt fair hiring guidelines issued by the EEOC regarding applicants' criminal records. If the corporation refuses to adopt these guidelines, Target will continue to exclude applicants qualified for the work they are applying for but who have a record in their past, including misdemeanors which pose no threat to the Target customers they would serve.

Qualified applicants for cashier positions such as Kissy Mason.

In 2012 Ms. Mason applied at Target after she was laid off from the Minnesota Council on Crime and Justice due to budget cuts. Target hired her as a cashier and gave her a start date, but then revoked this offer after a background check found that Ms. Mason had a misdemeanor in 2004.[16]

UNFULFILLED PROMISES OF JOB CREATION

WHAT TARGET SAYS

Target has a 330 acre campus in Brooklyn Park. In 2006 Target presented a plan to the city for creating the "best corporate campus ever"[17] that by 2015 would include 10 million square feet of office and retail space and more than 30,000 new jobs[18]. As the first step, Target committed to construct three new buildings and create 1,500 jobs[19] in exchange for an upfront $2.4 million subsidy and potential tax abatements up to $20 million.[20]

WHAT TARGET DOES

Target finished one building and created less than 500 jobs and then halted any new activity.[21] In 2008, Target said it would not fulfill the other parts of the contract due to changes in the economy and better opportunities to expand in India.[22] In 2011 the city entered into a revised contract to give Target a new $2 million upfront subsidy to construct an office building and resume its creation of the remaining 1,000 jobs it had committed to.[23] However, instead of creating jobs, Target will just be transferring existing jobs from downtown Minneapolis.[24]

CLEAN STORES, SHINY FLOORS, EXPECTED OF THE WORKING POOR

Having clean, shiny stores is one of the pillars that Target was founded on. Its stores are known for their trademark clean floors. It is a central facet of their brand.[25] Most customers are unaware that the level of cleanliness has been achieved through the use of subcontractors who have been accused of exploiting their janitors by not paying all of the wages they are owed and by putting them in unsafe working conditions.

Twelve workers in Minnesota recently filed a lawsuit against Target's largest janitorial contractor, Diversified Maintenance. The lawsuit charged that Diversified failed to pay them for all the hours they worked.

The case alleged that:

- Employees regularly worked 56-60 hours a week without full overtime pay.
- Employees were required to work seven days a week – six days under their own name and one day under a "ghost name".
- When employees raised questions about not being paid overtime, the supervisor threatened to fire them or have them arrested.[26]

"I worked as a cleaner for Diversified Maintenance for about 4 and a-half years. I work to support my family here and the children that I have in Mexico. For years I worked 8 hours per night, seven days a week without a day off, to be able to make extra money to send home. However, in that time, I was not paid time and a half for the 16 hours of overtime. I worked every week. I am not asking for anything extra. Just to be paid what I am owed."
– Leticia Baeza

This is not an isolated case. In the last 10 years, Diversified Maintenance has settled at least 9 private lawsuits as well as 6 investigations by the U.S. Department of Labor (DOL), all alleging violations of minimum wage and overtime laws. One of the DOL investigations in Minnesota found that Diversified required employees to work seven

days a week without any overtime pay. The investigation also found that Diversified held new employees' pay as a "deposit" that they would receive when they left the company.[27]

Despite this shameful record, Diversified is contracted to clean 636 Target stores nationwide.[28] This directly contradicts Target's statement that it is "committed to providing a work environment that complies with all wage and hour laws," and that the company "takes proactive steps to ensure that team members are paid appropriately. . ."[29]

These problems at Target with Diversified are not limited to just this one contractor.

Prestige Maintenance, based in Plano, TX, cleaned Target stores in several states. In 2009 the company settled a lawsuit brought by sixteen of it workers who claimed that the company owed them overtime pay. The workers who brought the lawsuit were Latino immigrants who cleaned Target stores in Maryland overnight from 10:30 p.m. to 8:00 a.m. every night. [30]

Prior to the lawsuit, Prestige Maintenance was investigated by the Department of Labor at least three times, resulting in more than 400 violations for failing to pay overtime to workers in Minnesota, Florida, and New York. [31]

Jim's Maintenance settled a lawsuit in 2009 brought by its workers who cleaned Target stores in Texas.[32] The workers charged that they were not paid overtime despite consistently working 55 to 75 hours a week. Workers alleged that managers locked cleaning crews in overnight for a typical shift from 10:30 p.m. to 7:00 or 8:00 a.m.

One of the workers stated that they worked 10 hours a day, with only one day off every two weeks. Another worker was paid a flat $1,400 a month, which, based on the hours he worked, came out to an hourly wage of less than five dollars.[33]

Global Building Services cleaned Target stores in California, Arizona, Nevada, New Mexico, and Texas. In 2004 the company entered into a $1.9 million settlement with the United States Department of Labor over charges that it owed overtime to 775 janitors who often worked seven nights a week cleaning Target stores.

One worker said that he worked 80 hours a week – from 10:00 p.m. to 8:00 a.m. without any days off. The company not only didn't pay him overtime wages, but his total pay came out to less than the minimum wage.[34]
Target has workplace standards for overseas factory workers but not for the janitors who clean its stores at home.

Target has a strict Social Compliance program that sets and enforces workplace standards for its vendors. The standards cover overseas workers who manufacture Target products, but not the janitors who clean Target stores in the United States. Some of the cleaning contractors Target hires in the U.S. appear to be violating the ethical standards that Target sets for its overseas vendors:

According to Target:
"Labor challenges are seen in every country across the world… As strong advocates for human rights, we expect all workers, including imported and migrant workers, to be provided wages, benefits and working conditions that are fair and in accordance with local law."[35]

Target's "Standards of Vendor Engagement" specifically prohibit the practices regarding overtime that have been the subject of numerous lawsuits against Target's cleaning contractors.

"We seek business partners who do not require a work week that exceeds local laws or business customs and who do not require a week of more than 48 hours . . ."[36]

Target's vendor standards were strengthened after its former parent company, Dayton Hudson, faced lawsuits and protests alleging that products sold in its stores were made under sweatshop conditions.

- In 1995, Mervyn's, a discount department store chain owned by Dayton Hudson, was named a defendant in a $100 million lawsuit filed on behalf of more than 60 Thai workers who allegedly were forced to sew garments 17 hours a day under the threat of beatings and rape at the El Monte sweatshop in Los Angeles. Dayton's and four other retailers settled the suit for $2 million.[37]
- In 1999, three lawsuits seeking a combined $1 billion claimed that Dayton Hudson and other major retailers conspired to use sweatshop laborers - primarily young women - to make clothing on the island of Saipan, a U.S. commonwealth territory in the South Pacific. The lawsuits were filed on behalf of more than 50,000 workers from China, the Philippines, Bangladesh and Thailand, who were lured to Saipan with promises of high pay and quality work in the United States.[38]
- In 2000, Pedro Ortega, a Nicaraguan union leader, said the Mil Colores factory in Nicaragua's free-trade zone made clothes under sweatshop conditions sold at Kohl's and Target stores. He said more than 200 workers at the factory in Nicaragua's free-trade zone had been fired for trying to form a union to address working conditions that included low pay and unsanitary conditions.[39]

TARGET AVOIDS PAYING A LIVING WAGE

Target refuses to pay employees a living wage even when it receives public subsidies that normally require the recipient to pay employees a living wage.

Target received $62 million from the city of Minneapolis to build its downtown store, office tower, and parking ramp.[40] The company was able to get the project classified as a "community development" project rather than an "economic development" project so that the city's living wage job policy wouldn't apply.[41]

When the Target Corporation received $7.8 million from the city of St Paul to renovate its downtown Dayton's store, the company succeeded in getting an exemption from the city's living wage ordinance.[42]

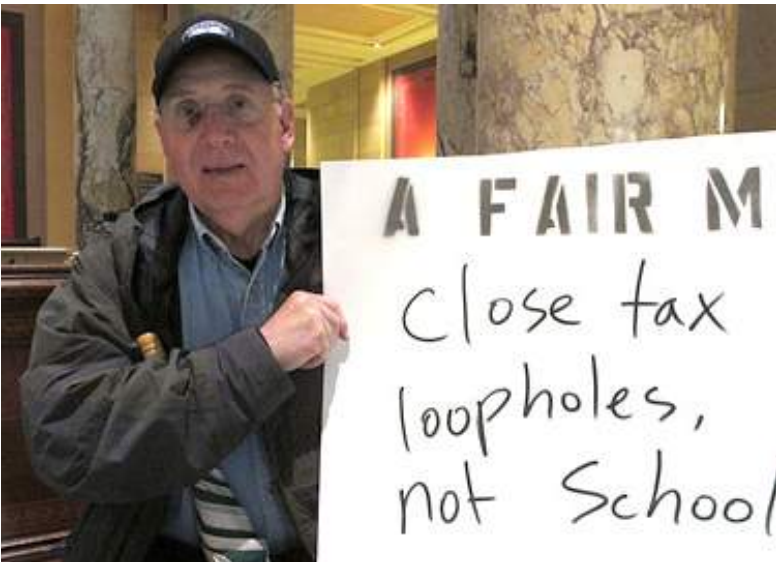
The city of Brooklyn Park agreed to give Target an upfront subsidy of $2.4 million and tax abatements totaling $20 million to construct office space on its campus. Target got the city to waive the living wage requirements for the workers who would be employed at the site.[43]

BETTER TO RECEIVE THAN TO GIVE

Target has sought and received millions of dollars from Minnesota taxpayers in public subsidies, while at the same time using loopholes and offshore tax havens to avoid paying its fair share of taxes.

In addition to the three instances above of Target receiving public funds, Target also received $2.3 million from the city of Red Wing in 2001,[44] $2 million from Medina in 2005,[45] $1.25 million from Inver Grove Heights in 2011[46] , and another $2.5 million from Brooklyn Park in 2012[47].

Although Target has been a regular beneficiary of taxpayer money, the company has engaged in practices, such as having subsidiaries in offshore tax havens in Bermuda, Hong Kong and Singapore that make it possible to shift income and assets in order to avoid paying corporate income taxes in the United States.[48]



From 2008 to 2010, Target avoided paying $1 billion in federal income taxes. While the federal tax rate requires big corporations to pay a 35% corporate income tax rate, Target paid a rate of just 26%.[49] During this same time, Target avoided paying $354 million in state corporate income taxes. Target paid state income taxes equal to just 3.2% of its U.S. profits.[50] Since the average state income corporate tax rate is about 6.2%[51], Target was able to shield almost half of its profits from state taxes entirely.

The tax avoidance schemes of Target and other big corporations have led to chronic budget shortfalls and years of cuts-only budgets.

ENABLING MINNESOTA'S WORST-IN-THE-NATION RACIAL JOBS GAP

Target contributes to the Twin Cities' racial jobs gap through its unfair and discriminatory hiring practices. These practices, which Target has to date chosen to side step, place a disparate impact on Minnesota's communities of color, based on how Target weighs criminal backgrounds in their hiring practices.

A recent study found that African-Americans in the Twin Cities are three times more likely to be unemployed as whites, the worst racial disparity in unemployment in the country. Almost twenty percent of African-Americans were unemployed, one of the highest rates in the United States.[52]

As the largest employer in Minneapolis and the fourth largest employer in Minnesota, Target can play an important role in either perpetuating this gap or narrowing it, especially with its longstanding promise to create over 30,000 new jobs in Brooklyn Park[53]. Brooklyn Park, along with neighboring Brooklyn Center, are the most racially diverse communities in the metro area and African-Americans make up a larger percentage of the population in these cities than in any other cities in Minnesota[54]. In addition, Brooklyn Park has consistently had one of the metro area's higher unemployment rates[55].

Target has faced accusations of discrimination, which raise questions about the company's stated commitment to diversity and to respecting all of its team members. In Wisconsin, Target agreed to pay $510,000 to four African-Americans who were denied store manager jobs based on their race[56]. In Pennsylvania, Target paid $775,000 to settle a lawsuit charging Target with creating a racially hostile work environment.[57]

Target states that "[d]iscrimination is strictly prohibited and will not be tolerated,"[58] and that the company has a "long standing commitment to equal opportunity,"[59] yet Target has refused to adopt the fair hiring guidelines issued by the U.S. Equal Employment Opportunity Commission (EEOC) to ensure that companies are not discriminating against applicants based on their race.

Target maintains that it has "made a commitment to maintain employment policies and practices that affirmatively promote equal employment opportunities for people of color . . .,"[60] yet it has refused to adopt the specific policies and practices that the EEOC issued for this purpose. Without these guidelines Target will continue to discriminate against qualified applicants such as described below:

In 2004, Kissy Mason committed a misdemeanor involving a family dispute. She paid her fines and completed two years' probation. Kissy received a bachelor's degree in Criminal Justice from Metro State and went to work for the Minnesota Council on Crime and Justice.

In November 2011 she was able to get an expungement, sealing her record from the public, and giving her what she thought was a clean slate. According to the Minnesota Courts, expungement "is possible, but not granted very often . . . Convictions of minor crimes may be expunged only if you can show that you have made real changes in your life and that it is very unlikely that you will commit another crime."[61]

Kissy Mason, left

Due to budget cuts, Kissy was laid off from her job at the Minnesota Council on Crime and Justice. She believed that it would be easy to find a job since she got the expungement, but it hasn't been. Kissy applied for a job at Target. The Target application asks "Have you ever been convicted of a crime?" The application states that the existence of a criminal record will not automatically disqualify the applicant and instructs the applicant to answer "no" if their record has been expunged.

Kissy went through all of the hiring steps. Target offered her a job as a cashier and gave her a start date. However, before she started the job, Target called her back and said that she did not clear the criminal background check.

The EEOC has stated that excluding applicants from employment based on certain criminal conduct may disproportionately impact some individuals protected under the Civil Rights Act and "may violate the law if not job related and consistent with business necessity . . ."[62]

The EEOC's guidance says "criminal record exclusions have a disparate impact based on race and national origin."[63] The EEOC notes that African-Americans

and Latinos are arrested in numbers disproportionate to their representation in the general population, and that there is evidence that this incarceration rate is not due to a greater rate of criminal activity.

The EEOC points out that African-Americans and Latinos were more likely than whites to be arrested, convicted, or sentenced for drug offenses even though their rate of drug use is similar to or less than the rate of drug use for whites. For instance, the EEOC notes that government surveys show that whites use marijuana at higher rates than African-Americans and Latinos, but the arrest rate for marijuana of Latinos is almost three times the arrest rate of whites, and the marijuana arrest rate of African-Americans is five times the arrest rate of whites.[64]

For individuals with records in their past, like Kissy Mason, the vast majority of which are people of color, Target's hiring practices are a significant barrier to a better life. If Target chooses to adopt the EEOC's guidelines, and hire qualified applicants whose records pose no issue for the work they would be hired to do, this leadership would help to reduce Minnesota's worst-in-the-nation racial jobs gap and economically strengthen communities of color in the state. The choice is Target's to make.

TARGET TAKES BUT DOESN'T DELIVER IN BROOKLYN PARK

Target has received millions of dollars from Brooklyn Park in exchange for the promise of jobs, which it has yet to deliver on.

Target owns a 330 acre campus in Brooklyn Park. According to the Met Council, Brooklyn Park and neighboring Brooklyn Center are the most racially diverse communities in the Twin Cities metro area, and Africans and African-Americans make up a larger percentage of the population in these cities than in any others.[65] People of color account for half of the population in Brooklyn Park, and African-Americans make up a quarter of the population.[66]

In 2006, Target had 900 employees housed in three buildings on its campus. Target presented a plan to the city for how it was going to create the "best corporate campus ever" that would include[67]:

- 8 million square feet of office space
- 2 million square feet of retail space
- 3,000 units of housing
- At least two hotels
- A library and public park
- More than 30,000 new jobs (not including the construction jobs)
- Between 11,000 – 23,000 spin-off jobs in the state

The first step towards realizing this vision was a contract in which the city agreed to an upfront $2.4 million subsidy to Target and tax abatements that could total more than $20 million[69]. In return, Target committed to constructing three new buildings and creating 1,500 new jobs.[70]

Target was able to convince the city to waive several provisions usually required by state statute for business subsidies. Based on the amount of the subsidy, Target should

have been required to create over 5,000 jobs instead of just 1,500.[71] In addition, Target was able to count contract employees towards its job creation goals, could put multiple part-time jobs together to count for a full-time job, and did not have any minimum wage for what the new jobs would pay, just an average from all the jobs.[72]

Target finished one building and created less than 500 jobs and then halted any new activity. In 2008, Target said it would not fulfill the other parts of the contract due to changes in the economy and better opportunities to expand in India.[73]

In 2011, rather than exercise its right to terminate the contract due to inactivity, the city entered into a revised contract in which the city agreed to give Target a new upfront subsidy, expected to be about $2 million, to construct another office building and resume its creation of the remaining 1,000 jobs it had committed to.[74]

Around the same time, Target announced it would transfer its 3,900 worker Technology Services team from downtown Minneapolis to Brooklyn Park by 2014.[75] Target will use the transfer of these 3,900 jobs to satisfy its "job creation" requirement.

WE EXPECT MORE:
TARGET CAN CHOOSE TO UNLOCK OUR FUTURE

Target has the power and responsibility to take three simple steps to live up to promises made to the people of Minnesota.

1 Hire responsible contractors that:

- Comply with all state and federal laws regarding employees' rights
- Pay workers a living wage, with affordable health insurance, and benefits that include paid time off, such as vacation days, sick leave, and holidays.
- Ensure that workers are free to exercise their right to form a union and to engage in collective activity, without intimidation or retaliation.

2 Adopt fair hiring practices to help end the racial jobs gap

Target can play a public leadership role in ending the racial jobs gap by adopting fair hiring practices, including the guidelines recommended by the EEOC and best practices used by the state of Minnesota regarding applicant's criminal records:

- Remove questions about criminal records from initial employment applications.
- Do not consider non-conviction records or cases that have been expunged or pardoned.
- Consider criminal records only when they directly relate to the position sought by an applicant.
- Allow applicants to show evidence of rehabilitation.

3 Fulfill its commitment to the taxpayers of Brooklyn Park

Target should fulfill its commitment to the taxpayers of Brooklyn Park and create 1,000 new, permanent, full-time jobs at its Brooklyn Park campus.
Target should:

- Work with community partners to recruit lower-income individuals and people of color for employment.
- Work with community partners and area educational institutions to train individuals for employment.
- Use fair hiring practices when filling these jobs.

ABOUT US

TakeAction Minnesota

We are a growing statewide people's network of more than 14,000 individuals and 28 organizational members that works collaboratively to raise the voices of Minnesotans in their own communities so they can realize racial, social and economic justice.
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We bring together members of community, faith and labor organizations, and other Minnesotans to fight for an economy that works for all of us, not just large corporations and the top one percent.
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We are Minnesota's Property Services Union, uniting more than 6,000 janitors, security officers, and window cleaners in the Twin Cities metropolitan area.
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FOOTNOTES

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