THE FAIR TRADING COMMISSION
BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER OF THE CONSUMER PROTECTION ACT, 2010;

FAIR TRADING COMMISSION
VS.
RAMESH PILLAY
(Trading as Baie Lazare Supermarket)

Case No: CPA/INS16/70

Complainant – Fair Trading Commission
Respondent – Ramesh Pillay (trading as Baie Lazare Supermarket)

QUORUM:
Mr. Victor Pool – Presiding Chairperson
Mrs. Jenna Thelermont – Commissioner
Mr. Michael Nalletamby – Commissioner

For the Complaint: Ms. Priyanka Ramruchaya – Legal Officer (FTC)

Respondent – In person

RULING

[1]The Fair Trading Commission conducted a routine inspection at the business premises of Ramesh Pillay, trading as Baie Lazare Supermarket, situated at Baie Lazare, Mahe on the 20th September, 2016 pursuant to Section 33(1)(j) of the Fair Trading Commission Act, 2009 whereby several contraventions of the Consumer Protection Act, 2010 were observed. The respondent was served with a compliance notice on the 18th of October, 2016 with specific directions to remedy the breaches. The Commission conducted a follow-up visit at Baie Lazare Supermarket to ensure compliance with the Consumer Protection Act, 2010 on the 28th of February, 2017 whereby it was found that the respondent was still in breach of the said Act by firstly, displaying for sale 384 items which contained information that were not in plain language contrary to Section 19(1) of the Act which provides that "*Where a person is required in terms of this Act or any other written law to produce, provide or display a notice, document or other visual representation to a consumer, that person shall produce, provide or display such notice, document or visual representation (a) in the*

form prescribed by this Act or any other written law; or (b) in plain language, if no form has been prescribed." Secondly by offering for sale 61 items without displaying the price in relation to those goods contrary to Section 20(1) of the Act which provides that *"Subject to this subsection (2), a retailer shall not display any goods for sale without displaying to the consumer a price in relation to those goods."* Lastly, by offering for sale 13 items past the expiry dates of those items contrary to Section 24(1) of the Act which provides that *"A person shall not offer to supply, display or supply any particular goods at a date later than the expiry date of the goods."*

[2]The Commission filed a case before the Board of Commissioners and the parties were summoned to appear before the Board on 31st October, 2017. Mr. Ramesh Pillay appeared and informed the Board that he had been duly served with the docket and he will not be contesting the breaches. The respondent submitted that he had no excuse and that the incident happened due to negligence on the part of his employees. That he has been encountering major problems with getting competent workers for his shops. Mr. Pillay apologised and prayed for leniency.

[3]Ms. Priyanka Ramruchaya, Legal Officer of the Fair Trading Commission subsequently submitted in writing that the respondent has had ample opportunity to remedy the breaches observed at his shop but he has failed to do so, therefore, still in breach of the Consumer Protection Act, 2010. That the Board should have regard to the gravity of the contraventions given amount of items found to be non-compliant to the law. That the Board should also have regard to the fact that the respondent has appeared before the Board of Commissioners in CPA/INS16/62 and was fined SR.10,000 and therefore a fine on the higher end should be imposed as a deterrent.

[4]Having listened to both parties and based on his own admission the Board of Commissioners hereby finds the respondent Ramesh Pillay to be in contravention of Section 19(1) read with Section 19(2)(a), Section 20(1) read with Section 20(3) and Section 24(1) of the Consumer Protection Act, 2010. The Board has deliberated on the matter of a suitable penalty in the circumstances. From the outset the Board takes notice that the respondent is not a first time offender before the Board and again the respondent has not contested to the contraventions thus not wasting the Board's time with a lengthy hearing. The Board will not accept the respondent's excuse of negligence given that the respondent has had many encounters with the Fair Trading Commission and therefore should be well aware of his responsibilities and obligations towards the law. The Board will also, as prayed for by the Commission, lend its mind to the potential health risk attached to the possible consumption of the expired goods which were found to be food products.

[5]Based on the above factors the Board hereby imposes financial penalties to be paid by the respondent, Ramesh Pillay (trading as Baie Lazare Supermarket) in the following manner:-

- **For the contravention of Section 19(1) read with Section 19(2)(a) – SR.6,000;**
- **For the contravention of Section 20(1) read with Section 20(3)(a) – SR.6,000;**
- **For the contravention of Section 24(1) – SR.10,000.**

All payments are to be made to the office of the Fair Trading Commission not later than sixty (60) days from the date of this ruling.

[6]The parties are free to appeal against this ruling (*see Section 77 of the Consumer Protection Act, 2010 and Section 44 of the Fair Trading Commission Act, 2009)*

We rule accordingly.

Pronounced by us on this ....23rd.... day of January, 2018.

Mr. Victor Pool
Presiding Chairperson

Mrs. Jenna Thelermont
Commissioner

Mr. Michael Nalletamby
Commissioner