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Fair Trading Commission
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THE BOARD OF COMMISSIONERS

06th April 2021

CPA/INS18/27

Mr Jothinathan Selvaganapathy Pillay
Pointe Larue

Dear Mr Jothinathan Pillay,

RE: Fair Trading Commission Vs Mr Jothinathan Selvaganapathy Pillay (trading as A-ONE-J-SHOP) – CPA/INS18/27

In accordance with Section 42(1) of the Fair-Trading Commission Act 2009, please find attached a signed copy of the ruling of the Board of Commissioners of the hearing conducted in the above-mentioned case. We trust in your expedient compliance as per the orders contained herein.

Also note that failure or refusal to comply with this ruling constitutes an offence under Section 53(1) of the Fair-Trading Act 2009. The same is reproduced below:

53 (1) A person which refuses or fails to comply with a direction or order of the commission commits and offence and is liable-

a) Where the person is an individual, to a fine not exceeding SCR 100,000 rupees or to imprisonment for a term not exceeding 2 years or to both
b) Where the person is a person other than the individual to a fine not exceeding SCR 400,000 rupees

Moreover, you have the right to appeal against this decision. To that effect you may, **within Fourteen (14) days of this receipt of this document,** submit a Notice of Appeal setting out your grounds of appeal to:

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THE BOARD OF COMMISSIONERS

Chairperson for the Appeal Tribunal
P O Box 216,
Allied Building
Francis Rachel Street,
Mahe, Seychelles
Telephone: (248)4224881 /
Facsimile: (248)4225044
Email: john.renaud@renaudchambers.sc

Yours Sincerely,

Ms. Chrystal Loizeau
Assistant Registration Officer

For: Chairperson
Board of Commissioners
Fair Trading Commission

VISION 2033
Towards a Sustainable and Inclusive Future

THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS
(Consumer Protection Act, 2010)

IN THE MATTER OF;

FAIR TRADING COMMISSION

V

JOTHINATHAN SELVAGANAPATHY PILLAY
(Trading as A-ONE-J-SHOP)

Case No: CPA/INS18/27

QUORUM:
Ms. Karen Domingue – Chairperson
Mrs. Jenna Thelermont – Commissioner
Mr. Victor Pool – Commissioner

For the The Fair-Trading Commission
Ms. Salina Sinon – Legal Officer (FTC)

Respondent – In person

RULING

[1] The Fair-Trading Commission (the Commission) conducted a routine inspection pursuant to Section 33(1)(j) of the Fair-Trading Commission Act, 2009 (the Act) on the 22nd March, 2018, at the business premises of Jothinathan Selvaganapathy Pillay trading as A-ONE-J-SHOP at Pointe Larue, Mahe (the respondent), a registered and licensed business (See Annex 1) and a supplier of goods as defined by Section 2(1) of the Consumer Protection Act, 2010. During the inspection, officers of the Commission observed 1 product (24 items) on display and being offered for sale with labels which contained information that were not in plain language contrary to Section 19(1)(b) of the Consumer Protection Act, 2010. Moreover, the officers observed 126 products (1,189 items) being offered for sale without their prices being

displayed contrary to Section 20(1) of the same Act. Further, 15 products (98 items) were found to be on display for sale past their expiry date contrary to Section 24 of the Act. It was also observed that 9 out of the 15 expired products were food and drink items and 4 were baby products hence the respondent was also in contravention of Section 50(1)(a) of the act by offering for sale goods which do not meet the necessary safety requirements. Subsequently, the Commission filed a case before the Board of Commissioners for the contravention of the Consumer Protection Act, 2010, namely: -

- Section **19(1)(b)** read with Section **19(2)(a)** 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 in plain language, if no form has been prescribed.*" ***[19(2)*** *For the purposes of this Act, a notice, document or visual representation is in plain language if it is reasonable to conclude that an ordinary consumer of a class of persons to whom the notice, document or visual representation is intended, with average literacy skills and minimal experience as a consumer of the relevant goods or services, could be expected to understand the content, significance and import of the notice, document or visual representation without undue effort, having regard to (a) the context, comprehensiveness and consistency of the notice, document or visual representation.]*

- Section **20(1)** read with Section **20(3)(a)** 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.*" ***[20(3)(a)*** *A price is adequately displayed to a consumer if, in relation to any goods or services, a written indication of the price expressed in the currency of the Republic is annexed or affixed to, written, printed, stamped or located on, or otherwise applied to the goods or to, any band, ticket, covering, label, reel, shelf or other thing used in connection with the goods or on which the goods are mounted for display or exposed for sale.]*

- Section **24. (1)** 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."*

- Section **50(1)(a)** read with Section **50(2)(a)** which provides that *"A person shall not in trade or commerce supply any consumer goods which fail to comply with general safety requirement." [50(2)(a) For the purposes*

of this section, consumer goods fail to comply with the general safety requirement if they are not reasonably safe having regard to all the circumstances, including the manner in which, and the purpose for which, the goods are being and would be marketed, their composition or structure, the use of any mark in relation to the goods and any instructions or warnings which are given or would be given in respect to the keeping, use or consumption of the goods.]

[2] The respondent appeared before the Board of Commissioners twice and after analyzing the notice of complaint and case docket he the respondent accepted all liability for the contraventions contained in the complaint filed before the Board. The respondent explained that at the time of the inspection he was out of the country and he only returned in July, 2018 after two years. His Shop Manager was managing the shop during his absence when the incident happened. That in fact he only became aware of the inspection upon receiving the summons to appear before the Board as his Shop Manager never informed him. He informed the Board that this was the first time his business had been in contravention of the law after fourteen years in the retail business. Mr. Pillay expressed his regret and assured the Board that the incident will not recur.

[3] Ms. Sinon, representing the FTC moved as per the contraventions in the notice of complaint and urged the Board to take into consideration all the circumstances of the case and impose penalties as set out under Section 67(1) of the Consumer Protection Act, 2010 which provides that *"Where the Commission determines after a formal hearing that a person has contravened any requirement or prohibition contained in sections the Commission may order the person, in the case of an individual, to pay a penalty of a sum not exceeding SR100,000."*

[4] Based on the evidence before it and the respondent's admission, the Board of Commissioners hereby finds the respondent, Mr. Jothinathan Selvaganapathy Pillay trading as A-ONE-J-SHOP, to be in contravention of Section 19(1)(b) read with Section 19(2)(a) and Section 20(1) read with Section 20(3), Section 24.

[5] With regards to Section 50(1)(a) read with Section 50(2)(a) of the Consumer Protection Act, 2010, the Board finds that to grant this contravention will amount to duplicity of offence. Therefore, the Board shall not grant this pleading.

[6] On deciding on a suitable penalty, the Board has considered the mitigating factors put forth by the respondent. The Board also takes notice that the respondent is a first-time offender and has accepted the breaches thus not wasting the Board's time.

Consequently, the Board shall impose a fine on the respondent in accordance with Section 67(1) of the Act for the above contraventions in the following manner: -

- **For the contravention of Section 19(1)(b) read with Section 19(2)(a) the sum of SR500;**

- **For the contravention of Section 20(1) read with Section 20(3) the sum of SR10,000;**

- **For the contravention of Section 24 the sum of SR6,000;**

All payments are to be made by the respondents at the office of the Fair-Trading Commission not later than sixty (60) calendar days from the date of receipt of this ruling

[7] The parties are free to appeal against this ruling to the Appeal Tribunal *(See Section 44 of the Fair-Trading Commission Act, 2009 and Section 77(1) of the Consumer Protection Act, 2010).*

We rule accordingly.

Pronounced by us on this ..6th.... day of April, 2021.

Ms. Karen Domingue
Chairperson

Mrs. Jenna Thelermont
Commissioner

Mr. Victor Pool
Commissioner