THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION **Complainant**

VS.

ABARNA TRADERS (PTY) LTD **Respondent**

(Rep herein by Mr. Sivaguru Pillay)

CPA.INS13.002

Quorum

Mr. Colin Jean-Louis – Chairperson
Mr. Philippe Chong-Seng – Commissioner
Mr. Michael Nalletamby – Commissioner
Mr. Victor Pool – Commissioner

For the Complainant

Mrs. Aaishah Molle – Assistant Legal Officer (FTC)

For the Respondent

Mr. S. Rajasundaram – Attorney-At-Law

RULING

[1]Pursuant to Section 33(1)(j) of the Fair Trading Act, 2009 the Fair Trading Commission carried out inspection of goods at the retail outlet of Abarna Traders (Pty) Ltd trading as Abarna Shopping Centre of St Louis, presently the respondent, on the 1st of March, 2013 to ensure compliance with the provisions of the Consumer Protection Act, 2010 after being alerted of the contrary by a consumer. The inspection revealed that the respondent was indeed in breach of the Consumer Protection Act, 2010 namely Section 24 which provides that *"A person shall not*

offer to supply, display or supply any particular goods at a later date other than the expiry date of the goods".

[2]Consequently, a case was filed and heard against Abarna Traders (Pty) Ltd before the Board of Commissioners on 3rd of July, 2013 whereby it transpired that the respondent had nine types of products on display for sale at a date later than its expiry date. Those goods would have accrued a retail value of SR. 1, 965. 50/-. The respondent, being duly represented by Attorney-At-Law, Mr. S. Rajasundaram, admitted to the breach and mitigated that his client was a first offender who has fully co-operated with the Commission and therefore should be granted leniency *vis a vis* the fine to be imposed by the Commissioners. Further, that the Board should, when considering a suitable fine to impose, consider the breach as one contravention rather than nine as the statement of offence had illustrated given that there is in essence only one breach but relating to nine different products hence the nine counts.

[3]Mrs. Molle, the Assistant Legal Officer of the Fair Trading Commission and accordingly representing the Commission (the complainant), before the Board confirmed the respondent's swift co-operation with the Commission by disposing of expired goods and that Abarna Traders (Pty) Ltd was indeed a first offender but vigilantly added that this must not deter attention from the contravention and urged that such behaviour should be terminated bearing in mind the health related concerns had such products been consumed. She therefore asked the Board to consider penalties as set out under Section 67(1).

[4]The Board of Commissioners has deliberated on the matter and makes the following findings. That the respondent, Abarna Traders (Pty) Ltd, has contravened Section 24 of the Consumer Protection Act, 2010. When deciding a suitable penalty for the said contraventions the Board has taken into account the provisions of Section 67(3) as well as the mitigation of both Mr. Rajasundaram on behalf of the respondent and Mrs. Molle on behalf of the complainant. **Pursuant to powers accorded to us under Section 67(1) we shall impose a fine of SR. 6, 000/- on the respondent, Abarna Traders (Pty) Ltd to be paid to the Fair Trading Commission not later than 30 days from the date of this ruling.** We so order.

[5]The respondent has a right to appeal against this ruling *(See Section 44 of the Fair Trading Commission Act, 2009).*

Pronounced by us on this 7th day of August, 2013.

Mr. Colin Jean-Louis
Chairperson

Mr. Philippe Chong-Seng
Commissioner

Mr. Michael Nalletamby
Commissioner

Mr. Victor Pool
Commissioner