THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
AMIR MINI MARKET
(Rep herein by Mr. V. Vivekananthan)

CPA.INS12.020

Complainant: The Fair Trading Commission
Respondent: Amir Mini Market
(Rep herein by Mr. V. Vivekananthan)

QUORUM
Mrs. Vijaykumari (Dolly) Tirant – Commissioner (Chairperson)
Mr. Philippe Chong-Seng – Commissioner
Mrs. Annie Vidot – Commissioner

For the Complainant
Ms. Chantale Barallon – Senior Legal Advisor (FTC)
Ms. Aaishah Gerry – Assistant Legal Officer (FTC)
Ms. Lorraine Fred – Enforcement Officer (FTC)

Respondent – Absent

Case presented on behalf of the complainant by Ms. Aaishah Gerry, the Assistant Legal Officer, FTC.

RULING

[1]As part of its routine operations the Fair Trading Commission (the Commission) conducts inspections to ensure compliance with provisions of the Consumer Protection Act, 2010. On the 22nd day of March, 2012 several shops on Praslin were inspected and the respondent herein, Amir Mini Market, a registered business (See Annex 1), of Baie Ste Anne, Praslin was found firstly to be displaying goods for sale without an affixed price (See Annex 2) and secondly to be in possession of and offering to sell goods past their expiry dates (See Annex 3). The respondent was served with a Compliance Notice with a

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delay of fourteen days to comply with the said notice which ordered the immediate disposal of the expired goods and that all goods being sold have affixed prices on them. The expired goods, which would have accumulated a combined retail price of approximately SR. 1, 467/-, were destroyed.

[2]On the day scheduled for the matter to be heard by the Board the respondent failed to attend the hearing without any explanation despite having been duly served with summons to appear before Board of Commissioners on Wednesday 23rd May, 2012 at 10:30am (See Exhibits 1, 2 & 3). The matter therefore proceeded *exparte* in accordance with Rule 12 of the Fair Trading (Procedure for Conduct of Hearings) Rules, 2011. That being the case Ms. Aaishah Gerry, the Assistant Legal Officer, presented the case on behalf of the complainant and placed all of their findings before the Board.

[3]Based on the evidence adduced the Board of Commissioners finds the respondent to be in contravention of Section 20(1) which states that *"...a retailer shall not display any goods for sale without displaying to the consumer the price in relation to those goods"*, as well as Section 24(1) of the Consumer Protection Act, 2010 which provides that *"A person shall not supply, display or supply any particular goods at a date later than the expiry date of the goods"*. Further, given that the said goods are also deemed to be unsafe for consumption the respondent is also found to have contravened Section 50(1) of the same Act which prohibits the possession and supply of unsafe goods. Exercising the provisions available under Section 67(1) we shall impose penalties on the respondent, Amir Mini Market of Baie Ste Anne Praslin in the following manner;

- **for the contravention of Section 20(1) a fine in the sum of SR.3,000/-;**
- **for the contravention of Sections 24(1) and 50(1) a fine in the sum of SR.6,000/-**

[4]Moreover, due to the respondent's unexplained absence at the hearing of this matter we find it suitable to enforce Section 33(6)(a) of the Fair Trading Act, 2009 which provides that *"A person who without lawful or reasonable excuse, fails to attend a hearing or produce a document or other material when required to do under this section commits an offence and is liable on conviction, in the case of an individual, to a fine not exceeding 100, 000 rupees or to imprisonment for a term not exceeding 2 years;"* and rule that **the respondent pays an additional fine of SR.2, 000/-.**

[5]The aforementioned fines amounting to **SR.11,000/- are to be paid not later than thirty (30) days from the date of this ruling.** We so order.

[6]The respondent is free to appeal against this ruling.

Ruling pronounced by us on this .....28th..... day of .....November....., 2012

Mrs. Vijaykumari (Dolly) Tirant
Commissioner
(Chairperson)

Mr. Philippe Chong-Seng
Commissioner

Annie Vidot (Mrs.)
Commissioner