THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
ANGELIN NICHOLAS

CPA.13.202

Complainant – Ms. Francoise Brioche
Respondent – Mr. Angelin Nicholas

QUORUM:
Mr. Colin Jean-Louis – Chairperson
Mr. Philippe Chong-Seng – Commissioner
Mrs. Jenna Thelermont – Commissioner
Mr. Michael Nalletamby – Commissioner
Mr. Victor Pool – Commissioner

For the Complainant
Mr. Ziggy Adam – Legal Officer (FTC)
Ms. Francoise Brioche (Complainant)

Respondent – Absent

RULING

[1]The Fair Trading Commission (the Commission) established under Section 3(1) of the Fair Trading Commission Act, 2009 received on the 13th of June, 2013 a complaint from Ms. Francoise Brioche (complainant) (See Exhibit 1) against one Mr. Angelin Nicholas (respondent) (See Exhibit 2). The complaint was to the effect that Ms. Brioche had paid to Mr. Nicholas the sum of SR.4, 000 on the 1st of July, 2011 as part payment for the construction of a built-in wardrobe (See Exhibit 3). The respondent took measurements at the complainant's place and indicated that he would commence the said works on the 1st of October, 2011 which he failed to do so. Nearing the end of 2011 the complainant sought assistance from different legal authorities and after meeting with police officers the respondent agreed to refund the SR.4, 000 paid to him by the complainant in instalments of SR.1, 500. The respondent deviated from this

agreement and made only one payment of SR.1, 000 to Corporal Anna Quatre which the complainant collected (See Exhibit 4).

[2]Officers of the Commission made several attempts to contact Mr. Nicholas but to no avail. The Commission had to resort to putting out radio announcements which again yielded no results (See Exhibit 5). After further investigation officers of the Commission together with police officers on the 29th of August, 2013 went to the temporary place of residence of the respondent at La Gogue and brought him to the offices of the Commission. That same day Mr. Nicholas gave a written statement agreeing to refund the remaining balance in SR.500 instalments (See Exhibit 6). Subsequent to that date no payments were made until the 7th of March, 2014 whereby the respondent paid to the Legal Officer of the Commission one instalment of SR.500 (See Exhibit 7). On that day the respondent was served with documents pertaining to the case and a notice to appear before the Board of Commissioners on the 26th of March, 2014 to answer to the breach of Section 40(1)(a)(b) of the Consumer Protection Act, 2010 which reads as follows;

> ***40.(1)*** *Subject to this part, where a supplier undertakes to perform any service for or on behalf of a consumer, the supplier shall;*
>
> *(a) perform and complete that service in a timely manner and give to the consumer timely notice of any unavoidable delay;*
> *(b) perform the service in a manner and of a quality that persons are generally entitle to expect;*

[3]When the case was called before the Board of Commissioners on Wednesday 26th of March, 2014 the respondent, Mr. Angelin Nicholas, was absent. Mr. Ziggy Adam, Legal Officer presented the case on behalf of the Commission and made an application for the hearing to proceed exparte. The Board granted the application in accordance with Rule 12 of the Fair Trading (Procedure for Conduct of Hearings) Rules, 2011. Mr. Adam urged the Board of Commissioners to order the respondent to refund to the complainant the remaining balance of SR.2,500 pursuant to Section 40(2) of the Consumer Protection Act, 2010 and to consider penalties set out in Section 67(1) of the Consumer Protection Act, 2010 while having regards to Section 67(3) of the same Act and enforcing Section 68(1) where applicable.

[4]The Board of Commissioners deliberated on the matter and hereby finds the respondent, Mr. Angelin Nicholas to be in contravention of Section 40(1)(a) and (b) of

the Consumer Protection Act, 2010. Consequently, **the respondent is ordered to refund to the complainant, Ms. Francoise Brioche, the sum of SR.2,500** being the remaining balance of monies paid to him for the construction of a built-in wardrobe. **Payment is to be made to the offices of the Fair Trading Commission not later than thirty (30) days from the date of this ruling.**

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

[6] We rule accordingly

Pronounced by us on the .....30th..... day of May, 2014.

Mr. Colin Jean-Louis
Chairperson

Mr. Philippe Chong-Seng
Commissioner

Mrs. Jenna Thelermont
Commissioner

Mr. Michael Nalletamby
Commissioner

Mr. Victor Pool
Commissioner