THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
MR. EVANS JULES

CPA. 12. 23

Ms. Sandra Rath – Complainant
Mr. Evans Jules – Respondent

QUORUM:
Mr. Phillipe Chong-Seng – (Chairperson)
Mrs. Jenna Thelermont – Commissioner
Mrs. Annie Vidot – Commissioner

Ms. Aaishah Gerry – Legal Assistant (FTC)
Mr. Angello Lesperance – Enforcement Officer (FTC)

Case presented on behalf of the complainant by Ms. Aaishah Gerry – Legal Assistant (FTC)

RULING

[1]Mr. Evans Jules, the respondent herein, stands charge with the offence of failing to respect a signed undertaking which is prohibited under Section 70 of the Consumer Protection Act which states that;

> *"**70.** A person who fails or refuses to comply with an order, direction or undertaking of the Commission or order or direction of the Tribunal, commits an offence and is liable on conviction –*

Fair Trading Commission
Seychelles

(a) where the person is an individual, to a fine not exceeding 100, 000 rupees or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

(b) where the person is a person other than an individual to fine not exceeding 400, 000 rupees."

[2]The Commission registered a complaint from Ms. Sandra Rath, the complainant herein, on the 1st of February, 2012 (See complaint form-Annex 2), who described that she instructed the respondent to build an affixed kitchen cabinet in April, 2011. The wooden cabinet was to be built at the respondent's workshop then mounted at the complainant's house. That she paid a first down payment of Rs. 3, 500/- to the respondent on 28th April, 2011 (See Annex 3) for the purchase of materials needed to build the said cabinet. The respondent agreed to have the cabinet ready in one and a half months. As per the evidence, to date this has not been done. Following a few telephone exchanges between the above mentioned parties the respondent agreed to refund the complainant the Rs. 3, 500/- he received from her in instalments. After being informed of the respondent's non-compliance the Commission contacted the respondent who orally agreed for a meeting on the 14th of February, 2012 but he did not attend. Instead, he came by the Commission's offices on the 18th of April, 2012 where he was made to sign an undertaking with the Commission as per Section 75 (See Annex 6) to the effect that he would refund the full amount of Rs.3,500/- by the 15th of May, 2012. This also was not done. The Commission therefore deemed it necessary for a case against Mr. Evans Jules to be heard before the Board of Commissioners.

[3] The hearing of the case was fixed for Wednesday 27th June, 2012. All parties were present and the same proceeded accordingly. In his defence the respondent stated that the reason for his previous non-compliance was due to him being unemployed. That he had currently begun continuous employment with PUC therefore he would now be in a position to refund the complainant, deducting from his monthly salary. Analyzing all the evidence given by both the complainant and respondent, the Board has come to the following conclusion:-

- The respondent has kept Rs. 3, 500/- of the Complainant's money for over a year now without delivering the promised kitchen furniture despite being repeatedly chased by the complainant.

- Respondent has also failed to honour the signed undertaking of the 18th April 2012 whereby he had promised to refund the above-mentioned amount and we therefore find him in contravention of Section 72 of the Consumer Protection Act, 2010.
- By failing to respect the above conditions, the respondent has placed unnecessary and extra administrative work and loss of productive time on both the FTC staff and the complainant.

[4]Nevertheless on the day of the hearing the respondent had in his possession Rs.1,500/- which he was ready and willing to give to the complainant immediately as part payment of his debt. Given this development it was ordered by the Board of Commissioners that the Respondent signs a new undertaking on that same day (i.e. 27th June 2012) to **pay the sum of Rs.1,500/- immediately** to the Fair Trading Commission for safekeeping and to **pay the balance of Rs. 2, 000/- by the 30th July 2012** to the Fair Trading Commission. When the total amount of Rs. 3,500/- has been repaid then the Fair Trading Commission will hand over the same to the complainant who has expressed her wish to get the refunded amount as a lump sum rather than as instalments.

[4]After further scrutiny of the case the Board of Commissioners has found it necessary to impose **a fine of Rs. 500/-** on the respondent as per Section 67(1) of the Consumer Protection Act of 2010, **payable by Friday 31st of August, 2012.**

[5]We so order.

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

Ruling pronounced by us on this .....17th.....day of .....July....., 2012.

Mr. Philippe Chong-Seng	**Mrs. Jenna Thelermont**	**Mrs. Annie Vidot**
Commissioner	**Commissioner**	**Commissioner**

Undertaking given to Fair Trading Commission pursuant to section 75 of the Consumer Protection Act 2010

Case No. : CPA.12.23

Date: 27th June 2012

Name: **Evans Jules**
La Louise
Plaisance

I **Mr. Evans Jules** hereby gives an undertaking to the Fair Trading Commission pursuant to section 75 of the Consumer Protection Act 2010. The undertaking is as follows:

(a) To refund the sum of Seychelles Rupees Three thousand Five hundred only to Ms Sandra Rath.

(b) The refund shall be made in two installment as follows:

- First installment of SR1500/- on the 27th June 2012,
- Second installment by the 30th July 2012.

I, **Mr. Evans Jules** acknowledges and accepts that this Undertaking in no way derogates from the rights and remedies that may be available to any other person arising from my conduct.

I further acknowledge that the Commission will, at its absolute discretion, from time to time publish and publicly refer to this Undertaking.

Pursuant to section 70 of the Consumer Protection Act 2010, a person who fails or refuses to comply with this undertaking of the Commission commits an offence and is liable on conviction

- where the person is an individual, to a fine not exceeding 100,000 rupees or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment;
- where the person is a person other than an individual to a fine not exceeding 400,000 rupees.

.....
Mr. Evans Jules

This 27 **day of** June **2012**

Accepted by the Fair Trading Commission pursuant to section 75 of the Consumer Protection Act 2010

.....
Mr. Phillipe Chong-Seng
Commissioner

This 27th **day of** June **2012**