THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
GERARD JEANNEVOLE

CPA.11.148

Complainant - Mr. Chan Sing Chung
Respondent – Gerard Jeannevole

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

For the Complainant
Ms. Chantale Barallon – Director for Legal Affairs (FTC)
Mr. Chan Sing Chun – Complainant

Respondent – Absent

RULING

[1]The Fair Trading Commission registered a complaint from one Mr. Chan Sing Chung (complainant), of Mont-Fleuri, Mahe, on 4th August, 2011 (See Exhibit 2) against one Mr. Gerard Jeannevole (respondent), a licensed draughtsman of Anse La Mouche (See Exhibit 1). The complainant alleged that on the 4th of January, 2011 he paid to Mr. Jeannevole the sum of SR. 22, 000/- to prepare the architectural plans for the building of a proposed store at Mont Fleuri (See Exhibit 3). The respondent never submitted the plan to the Seychelles Planning Authority, therefore, the complainant requested a refund of the sum paid (See Exhibit 5).

[2]The respondent was contacted several times by officers of the Commission during the investigation of the case. On the 24th of August, 2012 Mr. Gerard Jeannevole, the respondent, signed an Undertaking with the Commission pursuant to Section 75 of the Consumer Protection Act, 2010 to the effect that he would refund the complainant the sum of SR. 22, 000/- in four instalments starting from the end of August, 2012 (See Exhibit 6). To date only the sum of SR. 3, 000/- has been deposited at the offices of the Commission towards the said refund (See Exhibit 7) and no other effort has been made by the respondent to comply with this direction of the Commission. It was therefore deemed necessary for a case against Mr. Gerard Jeannevole to be heard and determined by the Board of Commissioners.

[3]The matter was mentioned on Wednesday 21st of August, 2013 before the Board of Commissioners and in the presence and agreement of all parties the matter was fixed for hearing Wednesday 9th October, 2013 at 1:30pm. Consequently, the case was called on the 9th of October, 2013 at 1:55pm but the respondent, Mr. Gerard Jeannevole was absent. The Commission had received no communication from Mr. Jeannevole with regards to his absence. Ms. Barallon, the Director for Legal Affairs (FTC) who was appearing on behalf of the complainant moved that the matter proceeds in absence of the respondent in accordance to Rule 12(1) of the Fair Trading (Procedure for Conduct of Hearings) Rules 2012. The Board of Commissioners unanimously agreed to this application. The matter proceeded *exparte*. The Board went on to hear the case of the complainant then adjourned for deliberations.

[4]The Board of Commissioners has studied the evidence before it as well as the behaviour of the respondent regarding the matter. We find that the respondent, Mr. Gerard Jeannevole, has breached Section 70 of the Consumer Protection Act, 2010 by failing to comply with a signed Undertaking of the Commission and is liable to a fine not exceeding SR. 100, 000/- or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment. The Board hereby orders the respondent, **Mr. Gerard Jeannevole to refund to the complainant, Mr. Chan Sing Chung, the sum of SR. 19,000/- in the following manner:**

- **SR. 6, 400/- on or before the 31st of December, 2013;**
- **SR. 6, 300/- on or before the 31st of January, 2014; and**
- **SR. 6, 300/- on or before the 28th of February, 2014.**

[5]The Board of Commissioners further orders **that a fine of SR. 5, 000/- be imposed on the respondent, Mr. Gerard Jeannevole to be paid on or before the 31st of March, 2014** for breaching an Undertaking of the Commission dated 24th August, 2012.

[6]**All payments are to be made to the offices of the Fair Trading Commission.**

[7]**It is also ordered that in the event that the respondent Mr. Gerard Jeannevole fails to make any one payment as mentioned above the case shall immediately be forwarded to the Seychelles Police for further prosecution.** We so order.

[8]The parties are free to appeal against this ruling (See Section 44 of the Fair Trading Commission Act, 2009).

Pronounced by us on the 27th day of November, 2013.

Mr. Colin Jean-Louis
Chairperson

Mr. Philippe Chong-Seng
Commissioner

Mrs. Jenna Thelermont
Commissioner

Mr. Michael Nalletamby
Commissioner