THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
HUBERT SAVY

CPA.11.095.99

Complainant: Mr. Angelin Marie
Respondent: Mr. Hubert Savy (Absent)

QUORUM
Dr. Shelton Jolicoeur – Chairman (Resigned)
Mr. Philippe Chong-Seng – Commissioner
Mrs. Jenna Thelermont – Commissioner

Mr. Daniel Gappy – Chief Executive Officer (FTC)
Mr. Georges Tirant – Director for Consumer Protection Affairs (FTC)
Ms. Dolores Barrack – Enforcement Officer (FTC)

Case presented on behalf of the Complainant by Mr. Georges Tirant, Director for Consumer Protection Affairs (FTC)

RULING

[1]The complaint herein was registered by the Fair Trading Commission (the Commission) on the 12th of May, 2011 (See Exhibit A1) filed by Mr. Angelin Marie, the complainant herein, of Beau Bel Estate, Belombre, Mahe who had been aggrieved by one Mr. Hubert Savy, a draughtsmen from Bel Air (the respondent), after Mr. Marie paid SR. 1, 000/- to Mr. Savy on the 20th of December, 2010 as per an agreement reached between two for the latter to design a boundary wall for the former. The complainant alleges further that he paid another SR250/- to the respondent as planning fees. To the date of the filing of this matter before the Board of Commissioners by the Commission (the Fair Trading

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Commission) no plan had been submitted to the Seychelles Planning Authority (See Exhibit A7).

[2]Following the registering of the Complaint the Commission has taken several steps to resolve the matter amicably but this proved futile as the respondent failed to attend a scheduled meeting which he had previously confirmed his attendance for (See Exhibit A3) as well as to comply with a Compliance Notice dated 10th June, 2011 served on him (See Exhibit A4) to refund the complainant the sum of SR. 1, 250/-. The Commission therefore saw it fit for the case to be heard by the Board of Commissioners.

[3]On Wednesday 14th September, 2011 the Board convened for the hearing of the matter. Noticeably the respondent, Mr. Savy, was absent thus the case proceeded in his absence which is allowed under Rule 12(1) of the Fair Trading (Procedure for Conduct of Hearings) Rules, 2011. Mr. Georges Tirant, the Director for Consumer Protection Affairs of the Fair Trading Commission, presented the findings of the Commission on behalf of the complainant and the latter confirmed this position and reiterated his wish for Mr. Savy to be directed to complete the work he was paid for or he is refunded the amount.

[4]After going over the circumstances of this case it is clear to us that the respondent has contravened several sections of the Consumer Protection Act, 2010, namely Section 40(1)(a) by failing to provide the service he was paid for as defined, Section 40(2)(b) by not refunding the complainant after his failure to provide the service and is liable under Section 72(5) by failing to comply with a Compliance Notice. Furthermore, the respondent is liable under Section 33(6) due to his failure to attend a meeting set up by the Commission and moreover has contravened Rule 6(3) of the Fair Trading (Procedure for Conduct of Hearings) Rules, 2011 by failing to attend the hearing of the matter before the Board of Commissioner. We therefore rule that **the respondent refunds the complainant the sum of SR. 1, 250/- for his failure to provide the service he was paid for as well as pay a penalty of SR.1,000/- provided for under Section 67(1) of the Consumer Protection Act, 2010 for such a contravention. Furthermore, in accordance with Section 72(5) of the same Act we shall impose a fine in the sum of SR.1,000/- for failing to comply with a signed undertaking of the Commission. Additionally in accordance with Section 33(6) of the Fair Trading Act, 2009 the Board imposes a fine of SR.2,000/- *vis a vis* the respondent's failure to appear before the Commission and the Board of Commissioners. All fines and penalties are to be paid thirty (30) days from the date of this ruling. We so order.**

[5]To conclude we find it imperative to mention that in considering the above penalties the Board has had regard to the behaviour of the respondent towards the complainant and

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the Commission as well as the degree to which the respondent has cooperated with the Commission and we are shocked by the respondent's lack of concern for this matter. We take note that since the filing of this complaint the respondent has made no attempt to remedy the problem and has ignored all directions and communications from the Commission. We view this as a blatant disregard and disrespect towards the Commission. Such behaviour cannot be condoned.

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

Ruling pronounced by us on this 12th day of December, 2012

Mr. Philippe Chong-Seng
Commissioner

Mrs. Vijaykumari (Dolly) Tirant
Commissioner

Mrs. Jenna Thelermont
Commissioner