THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

FAIR TRADING COMMISSION

VS.

JAMES MARIE

CPA.14.085

Complainant- Madeleine Farabeau

Respondent- James Marie

QUORUM

Mr. Collin Jean-Louis-Chairperson

Mr. Phillipe Chong-Commissioner

Mrs. Jenna Thelermont-Commissioner

Mr. Micheal Nalletamby-Commissioner

Mr. Victor Pool- Commissioner

Present:

Ms. Chantale Barallon-Legal Advisor (FTC)

Ms. Karine Dick-Analyst (FTC)

Case presented on behalf of the Complainant by Ms. Karine Dick Analyst, FTC.

RULING

[1] Mr. James Marie, the respondent herein, has been brought before the Board of Commissioners (B.O.C) on the subject of failing to perform services for which he had

accepted payment. Section 40 (1) (a) provide that this is an offence under the Consumer Protection Act, 20110. The aforementioned is respectively reproduced below:

"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 in the performance of the service."

[2] The complaint was registered by the Commission from Ms. Madeleine Farabeau, the complainant herein, on 20th March, 2014 following which an investigation was launched by its officers. The first mentioned of the case occurred on Wednesday 17th June 2015 attended by all pertinent parties. The complainant's case as put across by Ms. Karine Dick, Analyst of the Fair Trading Commission was to effect that Ms. Madeleine had paid Mr. Marie Rs. 37,000/- for the construction of a house. Mr. Marie completed the foundation and did not complete the remaining of the work.

[3] An undertaking was agreed between the parties on the 16th October 2014 pursuant to Section 75 of the Consumer Protection Act 2010 (See Exhibit A4). The aforementioned is respectively reproduced below:

"75 (1) The Commission may accept a written undertaking given by a person for the purposes of this section in connection with a matter relating to the Commission's functions under this Act."

The undertaking stipulated that the respondent undertakes to pay the complainant Rs. 9,500/- in four instalments. The first instalment being October 2014 amounting to Rs. 3000/-, the second instalment being November 2014 amounting to Rs. 2,000/-, the third instalment being December 2014 amounting to Rs. 2,000/-, the fourth and final instalment in January 2015 amounting to Rs. 2,500/-. However, only a payment of Rs. 3,000/- was made by the respondent on the 31st October 2014 (See Exhibit A5).

[3] Due to non-adherence to the undertaking the case, has been forwarded to the Board of Commissioners for enforcement of the undertaking on the 28th May 2015 (See Notice of Motion). The respondent owes the complainant Rs. 6.500/-. On the 15th July, 2015 the case was mentioned again. The respondent had proposed to pay the amount owed by four instalments but the claimant rejected the proposal. Mr. Marie expressed his willingness to refund Mrs. Farabeau the sum he owes by two instalments.

[4] This is therefore to order the endorsement of the ...as final settlement of the case. **It is hereby ordered that the respondent refunds the complainant the full amount of Rs. 6,500/- in two instalments; the first on the 15th July, 2015 of Rs. 2,500/- , the second and final instalment of Rs. 4,000/- on the 04th August 2015.** It is necessary at this juncture to mention that failure to comply with an order, direction or undertaking of this

Commission or Tribunal constitutes an offence under Section 70 of the Consumer Protection Act, 2010 which stipulates a person is liable upon conviction to a fine not exceeding Rs. 100,000/- or to a term of imprisonment not exceeding a period of two years or to both such fine and imprisonment.

[5] We so order as per the undertaking.

Pronounced by us on this 15th July, 2015.

Mrs. Jenna Thelermont
(Commissioner)

Mr. Victor Pool
(Commissioner)

Mr. Phillippe Chong-Seng
(Commissioner)