THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
K.E.Y BROTHERS
(Rep herein by Mr. Krishna Esther)

CPA.INS12.011

Complainant: The Fair Trading Commission
Respondent: K.E.Y Brothers
(Rep herein by Mr. Krishna Esther)

QUORUM
Mrs. Vijaykumari (Dolly) Tirant – Commissioner (Chairperson)
Mr. Philippe Chong-Seng – Commissioner
Mrs. Annie Vidot – Commissioner

For the Complainant
Ms. Chantale Barallon – Senior Legal Advisor (FTC)
Ms. Aaishah Gerry – Assistant Legal Officer (FTC)
Ms. Lorraine Fred – Enforcement Officer (FTC)

Respondent – Absent

Case presented on behalf of the complainant by Ms. Aaishah Gerry, the Assistant Legal Officer, FTC.

RULING

[1]It is in evidence that on the 21st day of March, 2012 the Fair Trading Commission (the Commission) conducted several routine inspections on Praslin and La Digue to ensure compliance with provisions of the Consumer Protection Act, 2010. Amongst the shops inspected on Praslin the respondent herein, K.E.Y Brothers, a registered business (See Annex 1), of Anse Kerlan, Praslin, was found to be in contravention of several provisions

V. Tirant

the Act. Firstly, to be in possession of and offering to sell goods not in an understandable language (See Annex 4) rendering those goods unsafe for consumption. This is contrary to Section 19 of the Act. Secondly, displaying goods for sale without an affixed price (See Annex 3) and thirdly not supplying proper sales records to consumers which are prohibited under Sections 20 and 25 respectively. The goods were listed and in accordance with Section 72(1) the respondent was served with a Compliance Notice (See Annex 5) instructing him to immediately cease the above contraventions or face penalties as set out under Section 72(5).

[2]Subsequently the Commission filed the case before the Board of Commissioners (the Board) for determination. On the day scheduled for the matter to be heard the respondent failed to attend the hearing without any explanation, despite having been duly served with summons to appear before Board of Commissioners on Wednesday 23rd May, 2012 (See Exhibits 1 & 2). The matter therefore proceeded *exparte* in accordance with Rule 12 of the Fair Trading (Procedure for Conduct of Hearings) Rules, 2011 and Ms. Aaishah Gerry, the Assistant Legal Officer, presented the case on behalf of the complainant.

[3]Looking at the evidence placed before it the Board of Commissioners is satisfied that the respondent has contravened Sections 19, 20, 25 and 50(1) of the Consumer Protection Act, 2010. On imposing a good sentence we take note of the particular circumstance of this case such as the number of contraventions and the behaviour of the respondent. As per Section 67(1) we find it necessary to impose penalties onto the respondent, K.E.Y Brothers of Anse Kerlan, Praslin in the following manner;

- **for the contravention of Section 19 and 50(1) relating to having goods that are not in an understandable language rendering it unsafe, a fine of SR. 3, 000/-;**

- **for the contravention of Section 20 relating to displaying goods for sale without affixed prices, a fine of SR. 3, 000/-;**

- **for the contravention of Section 25 relating to non-issuing of proper sales records to consumer a fine of SR. 3, 000/-.**

[4]Furthermore, due to the respondent's unexplained absence at the hearing of this matter we find it suitable to enforce Section 33(6)(a) of the Fair Trading Act, 2009 which provides that *"A person who without lawful or reasonable excuse, fails to attend a hearing or produce a document or other material when required to do under this section commits and offence and is liable on conviction, in the case of an individual, to a fine not exceeding*

100,000 rupees or to imprisonment for a term not exceeding 2 years;" and rule that **the respondent pays an additional fine of SR.2, 000/-.**

[5]For added clarity, note that the grand total sum of fine imposed is **SR. 11, 000/- to be paid not later than thirty (30) days from the date of this ruling.** We rule accordingly.

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

Ruling pronounced by us on this 14th day of November, 2012

Vijaykumari (Dolly) Tirant (Mrs.)
Commissioner
(Chairperson)

Philippe Chong-Seng (Mr.)
Commissioner

Annie Vidot (Mrs.)
Commissioner