THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
N. RAJESHKANNA PILLAY (Sri Vekkali Amman)

Case No: CPA.15.271

Complainant – Fair Trading Commission
Respondent – N. Rajeshkanna Pillay

QUORUM:
Mr. Victor Pool – Presiding Chairperson
Mr. Philippe Chong-Seng – Commissioner
Mrs. Jenna Thelermont – Commissioner
Mr. Michael Nalletamby – Commissioner

For the Complainant
Mrs. Sylvie Faure – Senior Legal Officer (FTC)

For the Respondent
Mr. N. Rajeshkanna Pillay

RULING

[1]Following a tip-off from a concerned consumer the Fair Trading Commission conducted an inspection, pursuant to Section 33(1)(j) of the Fair Trading Commission Act, 2009, on the business premises belonging to Mr. N. Rajeskanna Pillay, now respondent, situated at La Louise trading under the business name of Sri Vekkali Amman on the 27th of October, 2015(See CE1, CE2 & CE3). During the inspection officers of the Commission purchased two samples of pre-packaged potatoes advised to be of 1kg each (See CE4). A requested receipt was made out to the officers for 2kgs of potatoes at the sum of SR.23 (See CE5). Following the purchase officers of the Commission proceeded to weigh the two packages of potatoes one at a time using

the top loading spring scale being used by the shop. Both packages weighed less than 800gs. In addition, the packages did not contain any price either affixed to it or located on a shelf or any other thing containing the goods or used to display the goods. As a result the respondent was found to be displaying goods for sale without displaying a price in relation to those goods contrary to Section 20(1) of the Consumer Protection Act, 2010 which states that *"Subject to subsection (2), a retailer shall not display any goods for sale without displaying to the consumer a price in relation to those goods."* Further, the respondent was found to be selling pre-package goods which in fact weighed less than the weighed being implied to consumers. This act is deemed to be misleading to consumers contrary to Section 31(a) of the Consumer Protection Act, 2010 which provides that *"A person shall not, in trade or commerce in connection with the supply or possible supply of goods or services in connection with the promotion by any means of the supply or use of goods or services, engage in conduct that is liable to mislead or deceive the public as to the nature, manufacturing process, characteristics, suitability for a purpose, or quantity of good."*

[2]The Commission filed a case before the Board of Commissioners for the contravention of Sections 20(1) and 31(a) of the Consumer Protection Act, 2010. The case was heard before the Board of Commissioners on the 14th of September, 2016. The respondent was duly present for the hearing. Mrs. Sylvie Faure, Senior Legal Officer of the Fair Trading Commission, presented their findings to the Board. Mrs. Faure called one witness in support of her case, namely Mrs. Natalie Edmond, Principal Analyst in the Competition and Market Surveillance Department of the Fair Trading Commission. Mrs. Edmond testified that in October, 2015 as part of her duties she was overseeing the investigation process and the investigators under her supervision. That as part of the investigation process an investigation report was produced outlining the steps taken to investigate this case (See CE8). That subsequent to the initial inspection the Seychelles Bureau of Standards was contacted to provide their expertise on the matter. After weighing the test purchases and observing that they weighed 0.815kg and 0.521kgs a joint site visit was proposed by the Seychelles Bureau of Standards (See CE6) which took place on the 29th of October, 2015 to verify whether the weighing scale being used by the shop was in good working condition. Following necessary inspections by officers of the Seychelles Bureau of Standards it was concluded that the scale was in good working condition (See CE7). Mrs. Faure concluded by urging the Board to find in favour of the Commission and apply penalties as set out in Section 67(1) of the Consumer Protection Act, 2010.

[3]The respondent also addressed the Board and urged for leniency given that they have been in the retailing business for over ten years without any prior contraventions.

That this oversight was done by a new worker who lacked experience and was careless in performing their duties and did not weigh the goods again to ensure that the potatoes indeed weighed 1kg as advertised. The respondent ensured the Board that this would not happen again.

[4]The Board of Commissioners has deliberated on the matter and has given due consideration to the evidence adduced before it. The Board hereby finds the respondent, Mr. Rajeshkanna Pillay, by his own admission, to be in contravention of Section 20(1) and Section 31(a) of the Consumer Protection Act, 2010. Consequently, taking cognisance of the circumstances of the case including the fact that the respondent is a first time offender, that the actual weight of good received resulted in an over pricing of 25% and allowing for a margin of error the Board of Commissioners shall therefore impose penalties pursuant to Section 67(1) of the Consumer Protection Act, 2010 in the following manner:

- **For the contravention of Section 20(1) – SR.1,000.**
- **For the contravention of Section 31(a) – SR.2,000**

[5]All payments are to be paid to the office of the Fair Trading Commission not later than thirty (30)days from the date of this ruling.

[6]The parties are free to appeal against this ruling to the Appeal Tribunal *(See Section 44 of the Fair Trading Commission Act, 2009 and Section 77(1) of the Consumer Protection Act, 2010).*

[7]We rule accordingly.

Pronounced by us on this 13th day of October, 2016.

Mr. Victor Pool
Presiding Chairperson

Mrs. Jenna Thelermont
Commissioner

Mr. Philippe Chong-Seng
Commissioner

Mr. Michael Nalletamby
Commissioner