THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
PALS ENTERPRISE
(Rep herein by Mr. Percy Vidot)

Case No: CPA.13.352

Complainant – Mr. Jim Mangroo
Respondent – PALS Enterprise

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

For the Complainant
Mr. Trevor Louise – Legal Officer (FTC)
Mr. Jim Mangroo – Complainant

For the Respondent
Mr. Percy Vidot – Respondent

RULING

[1]The Fair Trading Commission (the Commission) registered a complaint on the 14th of October, 2013 from Mr. Jim Mangroo (complainant) (See Exhibit 1) against PALS Enterprise (respondent) represented herein by Mr. Percy Vidot (See Exhibit 2). The complaint was to the effect that the complainant paid to the respondent the sum of SR.5,000 (See Exhibit 5) for the building of a set of staircase at the complainant's residence which the respondent failed to do (See Exhibit 3). A compliance notice was served on the respondent on the 22nd of November, 2013 instructing him to complete the said works or refund the complainant (See Exhibit 6). The respondent did not comply. On the 10th of December, 2013 Mr. Vidot submitted an official statement to the Commission explaining why he had been unable to complete the works and

produced evidence of medical grounds (See Exhibits 7 & 8). The respondent accepted liability and expressed his willingness to refund the complainant. It was agreed that the respondent would pay SR.4,000 back to the complainant and on the 18th of February, 2014 Mr. Vidot signed an Undertaking to the effect that he would make this payment by the end of March, 2014 which he again failed to comply. The Commission therefore deemed it necessary for a case against PALS Enterprise for the contravention of Section 40(1)(a) which states that *"Subject to this Part, where a supplier undertakes to perform any service for or on behalf of a consumer, the supplier shall perform and complete that service in a timely manner and give to the consumer notice of any unavoidable delay in the performance of the service"* and Section 70(a) which provides that *"A person who fails or refuses to comply with an order, direction or Undertaking of the Commission or order or direction of the Tribunal, commits an offence and is liable on conviction where the person is an individual, to a fine not exceeding 100,000 rupees or to imprisonment for a term not exceeding two years, or to such both fine and imprisonment"*, to be filed before the Board of Commissioners for determination.

[2]All concerned parties were summoned to attend a hearing before the Board of Commissioners on Wednesday 28th May, 2014 at 2:00pm. That morning the respondent Mr. Percy Vidot appeared at the Commission and settled the debt in full (See Annex 12). The matter was heard as scheduled. Mr. Trevor Louise, Legal Office (FTC) presented the case on behalf of the complainant and informed the Board that given the respondent's compliance he would make no further representations with regards to the breach of Section 40(1)(a). This limb of the compliant is therefore settled and the Board of Commissioners shall make no further pronunciations on the matter.

[3]Mr. Louise however proceeded with the second limb of the complaint before the Board which was the breach of Section 70 of the Consumer Protection Act, 2010 and urged the Board of Commissioners to impose a penalty on the respondent for not complying with an Undertaking of the Commission.

[4]In his defence Mr. Vidot intimated that it was never his intention to leave the complainant's work incomplete but due to his medical situation he was forced to. He also stated that at no point did he refuse to refund Mr. Mangroo but he had been facing some financial and medical difficulties for some time which prevented him from making payment till now.

[5]The Board of Commissioners has deliberated on the matter and finds the respondent, PALS Enterprise, represented herein by Mr. Percy Vidot, to be in contravention of

Section 70 of the Consumer Protection Act, 2010 for which the Board of Commissioners shall hereby **impose a fine in the sum of SR.1, 000. Payment is to be made by the respondent to the offices 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).*

Pronounced by us on this 3rd day of September, 2014.

Mr. Philippe Chong-Seng
Chairperson

Mrs. Jenna Thelermont
Commissioner

Mr. Victor Pool
Commissioner