THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
PEOPLE'S SHOP
(Rep herein by Hitech Services (Sey) (Pty) Ltd)

CPA.INS12.P005

Complainant: The Fair Trading Commission
Respondent: People's Shop
(Rep by Hitech Services (Pty) Ltd)

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

For the complainant
Ms. Aaishah Gerry – Assistant Legal Officer (FTC)
Ms. Lorraine Fred – Enforcement Officer (FTC)
Mr. Jude Bistoquet – Enforcement Officer (FTC)

For the respondent
Mrs. Vidya.

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

RULING

[1]Pursuant to Section 33(1) of the Fair Trading Commission Act, 2009 inspections of goods were carried out at Upper Pointe Au Sel on the 23rd August, 2012 with the objective of

ensuring compliance with the provisions of the Consumer Protection Act, 2010. Amongst the two shops inspected that day the respondent herein, People's Shop, a registered business (See Annex 1) was found to be in contravention of Section 24(1) of the Consumer Protection Act, 2010 by being in possession of and offering to sell goods past their expiry dates (See Annex 2 & 3). Being expired those goods are considered unsafe and therefore amounting to a further contravention of the same Act, namely Section 50(1) which provides that person shall not in trade or commerce supply, expose, offer or agree to supply any consumer, or possess, goods which fail to comply with the general safety requirement. Further, one unexpired item, namely cans of Acroyal Fruit Salad, were deemed unsafe as the cans were inflated. Those goods, comprising of twenty different items with a combined retail value of SR.3,986.25/-, were listed (Annex 3), seized, placed in a carton box for disposal and the respondent served with Prohibition Notice (Annex 4).

[2]The case was heard by the Board of Commissioners on Wednesday 12th September, 2012 with Ms. Aaishah Gerry, the Assistant Legal Officer, presenting the case on behalf of the complainant, the Fair Trading Commission. Ms. Gerry presented all the findings of the Commission to the Board with the aid of Ms. Lorraine Fred, an Enforcement Officer of the Commission who explained that dented or inflated cans are considered unsafe as they are most likely to contain a type of bacteria called clostridium botulinum which can be hazardous to health. On the other side One Mrs. Vidya appeared on behalf of the respondent and she presented to the Board proof of disposal of the expired and unsafe items by producing a receipt from STAR Seychelles dated 6th September, 2012. Mrs. Vidya pleaded for a chance given that she had just started running the shop two months earlier and gave assurances that now goods are checked regularly and this incident will be unrepeated.

[3]We have studied all the evidence placed before us and have taken into consideration the recommendations of the Commission as well as the testimony of the respondent herein and find that the respondent has contravened Section 24(1) of the Consumer Protection Act, 2010 by offering to sell goods past their expiry dates which goods are rendered unsafe by Section 50(1) of the same Act. Therefore, in accordance with Section 67(1), we shall impose onto the respondent **a fine in the sum SR. 10, 000/- to be paid not later than thirty (30) days from the date of this ruling**. We so order.

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

Ruling pronounced by us on this 28th day of November, 2012.

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

Philippe Chong-Seng (Mr.)
Commissioner

Jenna Thelermont (Mrs.)
Commissioner

Annie Vidot (Mrs.)
Commissioner