THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
PORT GLAUD SUPERMARKET
(Rep herein by Mr. Somu Sekaar Pillay)

CPA.11.207.99-3

Complainant – Fair Trading Commission
Respondent – Port Glaud Supermarket

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

For the Complainant
Ms. Emily Mousbé – Legal Officer (FTC)

For the Respondent
Mr. S. Rajasundaram – Attorney-At- Law

RULING

[1]Exercising its power to inspect goods pursuant Section 33(1)(j) of the Fair Trading Commission Act, 2009 the Fair Trading Commission conducted a routine inspection of goods on the 14th of April, 2011 at the retail outlet of Port Glaud Supermarket of Port Glaud, a company registered in the Seychelles on the 19th of August, 2005 (See Annex 1). The inspection revealed that Port Glaud Supermarket, now the respondent herein was in contravention of Section 24(1) of the Consumer Protection Act, 2010 which provides as follows;

"24(1) A person shall not offer to supply, display or supply any particular goods at a date later than the expiry date of the goods."

[2]All relevant parties convened before the Board of Commissioners on Wednesday 9th April, 2014 for a formal hearing. Ms. Emily Mousbé, the Legal Officer of the Fair Trading Commission presented the Commission's findings against the respondent (See Annexes 2, 3 & 4) and prayed that the Board considers Section 67(1) of the Consumer Protection Act, 2010 and imposes appropriate penalties while having regards to Section 67(3) of the same Act. Ms. Mousbé also urged the Board to enforce Section 68(1) of the Act where applicable for instance taking into account that the respondent was a first time offender.

[3]Mr. Rajasundaram, Counsel for the respondent conceded to the complaint and accepted liability for the said breach of the Consumer Protection Act, 2010 and mitigated that by doing so the respondent has shown remorse for the said unlawful act. Mr. Rajasundaram added that the inspection by the Commission was carried out prior to the sale of the items therefore the respondent has not profited from the goods, moreover that those goods were returned to the suppliers. Mr. Rajasundaram concluded by praying to the Board to consider imposing the minimum financial penalty.

[4] The Board of Commissioners deliberated on the matter and has taken into account all the evidence produced and submissions from both sides. The Board takes note of Annexes 2 and 4 which reveal that the respondent was found to be displaying and offering for sale fifty (50) different products amounting to six hundred and fourteen (614) items altogether at a date later than the expiry date of those items. That being the case the Board of Commissioners hereby finds Port Glaud Supermarket to be in contravention of Section 24(1) of the Consumer Protection Act, 2010. In deciding a suitable penalty the Board has considered the all the mitigating factors of counsel for the respondent including the fact that the breach is admitted to. Nevertheless, the Board cannot ignore the amount of expired items discovered by officers of the Fair Trading Commission and that some items had been expired since April, 2010. The Board of Commissioners shall therefore impose a fine in accordance with Section 67(1) of the Consumer Protection Act, 2010 in the sum of **SR.10,000 on the respondent, Port Glaud Supermarket, to be paid to the office of the Fair Trading Commission not later than thirty (30) days from the date of this ruling.**

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

[6]We so order.

Pronounced by us on this .....11th..... day of June, 2014.

Mr. Colin Jean-Louis
Chairperson

Mr. Philippe Chong-Seng
Commissioner

Mrs. Jenna Thelermont
Commissioner

Mr. Michael Nalletamby
Commissioner

Mr. Victor Pool
Commissioner