THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
MR. RAMESH PILLAY
(Trading as Beau-Vallon Supermarket)

Case No: CPA/INS16/62

Complainant – Fair Trading Commission
Respondent – Mr. Ramesh Pillay

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

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

Respondent – Absent

RULING

[1]The Fair Trading Commission conducted a routine inspection, pursuant to Section 33(1)(j) of the Fair Trading Commission Act, 2009, on the business premises of Mr. Ramesh Pillay situated at Beau-Vallon, trading as Beau-Vallon Supermarket on the 2nd of November, 2016 whereby the business was found to be in contravention of Sections 20(1)&(3) and 24 of the Consumer Protection Act, 2010. In accordance with Section 72(1) of the same Act a compliance notice dated 23rd of November, 2 016 was issued to the business with certain directions to remedy the breaches. A compliance visit was conducted by officers of the Commission on the 7th of February, 2017

whereby the business was again found to be in contravention of Sections 20 and 24 of the Consumer Protection Act, 2010 and in addition Section 25(2) of the same Act. The Commission filed a case before the Board of Commissioners for the contravention of the above sections which are hereby reproduced below:-

> *"**20.(1)** Subject to this subsection (2), a retailer shall not display any goods for sale without displaying to the consumer a price in relation to those goods.*
>
> ***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.*
>
> ***25(2)(g)** A record under subsection (1) shall include the total price of the transaction before any application taxes."*

[2]The case was mentioned before the Board of Commissioners on the 3rd of May, 2017 and both parties appeared. The respondent did not dispute the breaches and explained that he had been encountering problems with his workers in that they do not follow the instructions he gives. He stated that he was in the process of rectifying all the issues identified by the Fair Trading Commission. The respondent was granted time to rectify those issues and was instructed to appear before the Board of Commissioners again on Wednesday 31st May, 2017. When the case was called on the 31st the respondent was absent and the Commission had received no communication from him excusing his absence. Mrs. Sylvie Faure, Senior Legal Officer of the Fair Trading Commission, moved as per her notice of motion and prayed that judgment be entered in his absence. The Board of Commissioner granted the application.

[3]Based on the evidence adduced as well as the respondent's own admission the Board of Commissioners hereby finds the respondent, Ramesh Pillay trading as Beau-Vallon Supermarket to be in contravention of Sections 20, 24 and 25(2)(g) of the Consumer Protection Act, 2010. Consequently, the Board of Commissioners shall therefore impose a penalty pursuant to Section 67(1) Act. In deciding on a suitable sentence the Board has taken into account several factors. To begin with, the behaviour of the respondent in relation to the Commission, in that he was non-compliant with the compliance notice served on him and he did not appear before the Board of Commissioners on the scheduled date. Also the location of Beau-Vallon Supermarket is situated in a district very popular with both locals and tourists meaning that the margin of exposure to those items were great. This situation is aggravated by the fact that all the expired goods were food items which could pose a danger to public health.

Taking all of these factors into consideration the Board **imposes the following penalties to be paid by the respondent, Ramesh Pillay, at the office of the Fair Trading Commission not later than thirty (30)days from the date of this ruling in manner;**

- **For the contravention of Section 20 – SR.5,000;**
- **For the contravention of Section 24 –SR.5,000.**

[4]**With regards to the contravention of Section 25(2)(g) the Board shall not impose a financial penalty but instead the Board shall issue a strong warning to respondent to cease this practice. Furthermore, the respondent is hereby directed to take the necessary steps to ensure that consumers are issued with a proper receipt as provided for by the law. The Commission is to conduct a visit within sixty (60) days from the date of this ruling to ensure compliance.**

[5]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).*

[6]We rule accordingly.

Pronounced by us on this 31st day of July, 2017.

Ms. Karen Domingue
Chairperson

Mr. Philippe Chong-Seng
Commissioner

Mrs. Jenna Thelermont
Commissioner

Mr. Michael Nalletamby
Commissioner

Mr. Victor Pool
Commissioner