THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION **Complainant**

VS.

RAMU STORES **Respondent**
(Rep herein by Mrs. Kavitha Pillay)

CPA.INS.110613.4

QUORUM:
Mr. Colin Jean-Louis – Chairperson
Mrs. Jenna Thelermont – Commissioner
Mr. Michael Nalletamby – Commissioner

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

For the Respondent
Mrs. Kavitha Pillay
Mr. Guy Ferley – Attorney-At-Law

RULING

[1]Pursuant to Section 33(1)(j) of the Fair Trading Commission Act, 2009, the Commission is empowered to conduct inspections to ensure compliance with provisions of the Consumer Protection Act, 2010. On the 11th of June, 2013 Ramu Stores, a licensed retailer and now respondent herein, was inspected and found to be offering for sale eighty-six items at a date later than the expiry date of those items and nine inflated cans of Milli Fruit Cocktail which failed to comply with the general safety requirements thus contravening Sections 24(1) and 50(1) of the Consumer Protection Act, 2010 respectively. The Commission compiled their findings and prepared a case against the respondent to be heard by the Board of Commissioners.

[2]The hearing proceeded on Wednesday 29th August, 2013. Ms. Emily Mousbé, Legal Officer, appeared on behalf of the Commission and she presented the case of the Commission to the Board. She concluded by bringing to the Board's attention that the respondent was a first offender but nonetheless urged the Board to consider penalties as set out in Section 67(1) of the Consumer Protection Act, 2010 while having regard to Sections 67(3) and 68 of the same Act.

[3]The respondent was duly represented by Mrs. Kavitha Pillay and Mr. Guy Ferley, Attorney-At-Law. It was made clear from the outset by counsel that his client was not denying the breaches and instead would want to offer reasons as to why these breaches occurred. Mrs. Pillay gave evidence to the effect that she has an arrangement with Seychelles Breweries that they would check their goods upon delivery but in this instance the officers of Seychelles Breweries did not check and that is why those expired Seypearl drinks were there. Moreover, the expired sweets found were small and many thus it was unpractical to check them all so it was an oversight on her part. With regards to the cans Mrs. Pillay stated that when she put them on the shelf it was not inflated, that she would not sell that to a consumer in any case. Mr. Ferley concluded the respondent's case by stating several mitigating factors; namely that the respondent was a first offender, that the expired items were few and the expired date not so far back, that there was no big margin of profit to be gained from the sale of those goods, that the respondent had co-operated fully with the Commission and therefore should be granted leniency.

[4]The Board of Commissioners has considered all the evidence adduced before as well as the submissions of both the complainant and respondent. The Board hereby finds the respondent, Ramu Stores, to be in contravention of the Consumer Protection Act, 2010 and accordingly fines the respondent in the following manner pursuant to Section 67(1) of the same Act:-

- **For the contravention of Section 24(1) – SR. 6, 000/-;**
- **For the contravention of Section 50(1) – Sr. 1, 500/-;**

All fines are to be paid to the 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). We so order.

Pronounced by us on this 16th day of October, 2013.

Mr. Colin Jean-Louis
Chairperson

Mrs. Jenna Thelermont
Commissioner

Mr. Michael Nalletamby
Commissioner