THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
SPAR EDEN ISLAND (PTY) LTD
(Rep herein by Mr. Samad Suleman)

Case No: CPA/INS16/018

Complainant – Fair Trading Commission
Respondent – SPAR Eden Island (Pty) Ltd

QUORUM:
Mr. Colin Jean-Louis – Chairperson
Mr. Michael Nalletamby – Commissioner
Mr. Victor Pool – Commissioner

For the Complainant
Mr. Ziggy Adam –Legal Officer (FTC)

For the Respondent
Mr. Samad Suleman – Respondent
Ms. Vanessa Gill – Attorney-At-Law

RULING

[1]Pursuant to Section 4 and Section 33(1)(j)of the Fair Trading Commission Act, 2009 the Fair Trading Commission (the Commission) conducted an inspection at the business premises of SPAR Eden Island (Pty) Ltd, a licensed wholesaler and retailer, situated at Eden Island, Mahe, on the 18th of March, 2016 whereby SPAR Eden Island (Pty) Ltd, now the respondent herein, was found to be in contravention of firstly Section 22(4) and (5) of the Consumer Protection Act, 2010 which prevents the offer to supply, the displaying and supplying of goods with altered trade descriptions, secondly Section 24(1) of the said Act which prohibits a supplier from offering to

supply, display or supply any particular goods at a date later than the expiry date of those goods and finally Section 50(2)(a) of the same Act which forbids the offering to supply, displaying or supplying of goods which fail to meet the general safety requirement. The Commission filed a case before the Board of Commissioners for the contravention of the above outlined sections of the Consumer Protection Act, 2010 urging the Board to consider penalties set out in Section 67(1) of the same Act.

[2]The case was called before the Board of Commissioners on Wednesday 8th June, 2016 for a hearing which was duly attended by all parties. Mr. Ziggy Adam, Legal Officer, was representing the Commission while Mr. Samad Suleman represented the respondent SPAR Eden Island (Pty) Ltd, accompanied by his counsel Ms. Vanessa Gill.

[3]Ms. Gill requested to be heard first and with no objections from Mr. Adam she was given the floor. Counsel went on to inform the Board that the respondent was accepting all liability and wished therefore to address the Board in mitigation on behalf of her client to be considered in the Board's deliberations. Counsel prayed for the Board's leniency when deciding on a suitable penalty given that the respondent has taken full responsibility for the matter and has not wasted the Board's time. Counsel also intimated that the respondent is deeply ashamed and embarrassed and realises the gravity of the situation given the health risk involved and the potential tarnishing of the respondent's reputation being a renowned food supplier in many countries. That the respondent has taken necessary steps to ensure that a similar situation is not repeated by replacing the floor manager of the SPAR Eden Island supermarket who was working at the time of the incident with a better qualified person. Counsel concluded by praying to the Board to grant the respondent a second chance.

[4]The Board of Commissioners deliberated on the matter and hereby finds the respondent, SPAR Eden Island (Pty) Ltd, upon its own admission to be in contravention of Section 22(4) and (5), Section 24(1) and Section 50(2)(a) of the Consumer Protection Act, 2010. Taking into consideration all the circumstances of the case the Board of Commissioners shall, in accordance with Section 67(1) of the Consumer Protection Act, 2010, **impose a fine on the respondent in the sum of SR. 1,000 to be paid to the offices of the Fair Trading Commission not later than thirty (30) days from the date of this ruling.** Further, the Board of Commissioners hereby issues a very strong warning to the respondent, who is also directed pursuant to Section 68 of the same Act to maintain necessary measures and practices to ensure public health safety and continuous compliance with the law.

[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).* We so order.

Pronounced by us on this 29th day of July, 2015.

Mr. Colin Jean-Louis
Chairperson

Mr. Michael Nalletamby
Commissioner

Mr. Victor Pool
Commissioner