THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
SSP IMPORTS (PTY) LTD
(Rep herein by Mr. Kingsley Albert)

CPA.INS.13.383

Complainant – Fair Trading Commission
Respondent – SSP Imports (Pty) Ltd

QUORUM:
Mr. Colin Jean-Louis – Chairperson
Mrs. Jenna Thelermont – Commissioner
Mr. Victor Pool – Commissioner

For the Complainant
Mr. Ziggy Adam – Legal Officer (FTC)
Ms. Nanet Bristol – Enforcement Officer (FTC)
Ms. Lorraine Fred – Enforcement Officer (FTC)

For the Respondent
Mr. Kingsley Albert

RULING

[1]Following information received from the National Consumers Forum (NATCOF) (See Exhibit 1) coupled with the fact that the retail business in question was a repeat offender (See Exhibits 5, 6, 7 & 8) the Fair Trading Commission conducted a follow-up inspection of goods on the 24th of September, 2013 at the retail outlet of SSP Imports (Pty) Ltd (See Exhibit 13), a company incorporated on the 6th of February, 1995 of Forêt Noire (See Exhibit 11), pursuant to its powers under Section 33 (1)(j) of the Fair Trading Commission Act, 2009 (See Exhibit 2). The inspection revealed that SSP Import (Pty) Ltd, now the respondent herein was in contravention of several provisions of the Consumer Protection Act, 2010. These include displaying and offering for sale without displaying to the consumer a price in relation to those goods contrary to Section 20(1) of the Act (See Exhibit 12); displaying and offering for sale

51 items at a date later than the expiry date of those goods contrary to Section 24(1) of the same Act, which items would have accumulated an approximate retail value of SR.520. 70/- (See Exhibits 2 & 3), and offering to supply goods which do not comply with the general safety requirements contrary to Section 50(1) (See Exhibits 2 & 4). The Commission therefore deemed it necessary for a case against the respondent to be brought before the Board of Commissioners.

[2]All relevant parties convened before the Board of Commissioners on Wednesday 12th February, 2014 for a formal hearing. Mr. Ziggy, the Legal Officer of the Fair Trading Commission presented the Commission's findings to the Board. Mr. Adam prayed that the Board considers Section 67(1) of the Consumer Protection Act, 2010 and impose appropriate penalties while having regards to Section 67(3) of the same Act especially given that the respondent is a third time offender. Mr. Adam also urges the Board to enforce Section 68(1) of the Act where applicable.

[3]Mr. Kingsley Albert (See Exhibit 10), representing the respondent admitted to breaches and explained that placing prices on items in the chiller was very difficult. He made no other submissions.

[4]The Board of Commissioners deliberated on the matter. Based on the abundant evidence produced and the fact that the respondent has admitted to the breach, the Board finds that the respondent, SSP Imports (Pty) Ltd to be in contravention of Section 20(1), Section 24(1) and Section 50(1) of the Consumer Protection Act, 2010. After considering the arguments of the Commission and submission of the respondent the Board of Commissioners, in accordance with Section 67(1) of the Consumer Protection Act, 2010 shall impose penalties on the respondent in the following manner while having regards to Section 67(3) of the Act:

- **For the contravention of Section 20(1) a fine of SR.6, 000/-;**
- **For the contravention of Section 24(1) a fine of SR. 9, 000/-.**

All fines are to be paid to the office of the Fair Trading Commission not later than thirty (30) days from the date of this ruling.

[5]With regards to the contravention of Section 50(1) of the Consumer Protection Act, 2010, given that only two items were identified to not comply the general safety requirements the Board has decided that enforcing Section 68(1) of the same Act would be a suitable remedy in the circumstances. Consequently, the Board of Commissioners hereby issues a strong warning to the respondent, SSP Imports (Pty)

Ltd to immediately cease such prohibited conduct and to ensure compliance with the law.

[6]When it comes to the allege contravention of Section 19(1) of the Consumer Protection Act, 2010 which states *"Where a person is required in terms of this Act or any other written law to produce, provide or display a notice, document or other visual representation to a consumer, that person shall produce, provide or display such notice, document or visual representation – (a) in the form prescribed by this Act or any other written law; or (b) in plain language, if no form has been prescribed"*, the Board of Commissioner has found no evidence to support this claim. The same hereby is dismissed.

[7]The parties are free to appeal against this ruling (See Section 44 of the Fair Trading Commission Act, 2009)

[8]We so order.

Pronounced by us on the 26 day of March, 2014.

Mr. Colin Jean-Louis
Chairperson

Mrs. Jenna Thelermont
Commissioner

Mr. Victor Pool
Commissioner