THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION **Complainant**

VS.

SSP IMPORTS **Respondent**
(Rep herein by Mr. Somu Sekaar Pillay)

CPA.INS.250613.2

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

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

For the Respondent
Mr. Kingsley Albert

RULING

[1]Pursuant to Section 33(1)(j) of the Fair Trading Commission Act, 2009 a routine inspection of goods was carried out at the retail outlet of SSP Imports on the 25th of June, 2013. During this exercise SSP Imports of Forêt Noire, a licensed retailer, now respondent herein, was duly inspected and found to be displaying for sale five hundred and twelve items at a date later than the expiry date of those items contrary to Section 24 of the Consumer Protection Act, 2010. Those expired items would have accumulated a retail value of approximately SR. 9, 0884. 85. 25/-? (See Exhibits 1, 2, and 3). Furthermore, SSP Imports was found to be displaying seven hundred and eighty-three items without displaying a price in relation to those items. This is

contrary to Section 20 of the Consumer Protection Act, 2010 (See Exhibit 4). The respondent was served with a compliance notice and a prohibition notice instructing them to immediately cease this unlawful behaviour. To this end the respondent subsequently produced to the Commission a copy of a receipt from Landscape and Waste Management Agency given to them following their disposing of the expired items (See Exhibit 7).

[2]A case against SSP Import was heard before the Board of Commissioners on Wednesday 11th September, 2013. One Mr. Kingsley Albert appeared on behalf of the respondent. The Board established from Mr. Albert that he has been an employee of SSP Imports for the past four years and he has been authorised and mandated to represent the respondent for these proceedings. Ms. Emily Mousbé, Legal Officer, appeared on behalf of the Commission went on to present their findings relating to the relevant contraventions and brought to the attention of Commissioners that SSP Imports was not a first offender before Board. Although no evidence was produced at this instance to support this statement, the Board takes due notice of cases before it past and present and thus recalls case number CPA.11.207.99 whereby SSP Imports was brought before the Board regarding similar breaches. Ms. Mousbé concluded by outlining the respondent's blatant behaviour and strongly 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(1) of the same Act. Mr. Albert provided no explanation to the breaches and simply unremorsefully stated that they did not check the items properly so they did not see. It should be noted at this point that some expiry dates went as far back as 2011, 2012 and alarmingly 2008 as well.

[3]The Board of Commissioners has considered all the evidence adduced before it and hereby finds that the SSP Import, the respondent herein, has contravened Section 20 and Section 24 of the Consumer Protection Act, 2010 which states respectively that *"... a retailer shall not display any goods for sale without displaying to the consumer a price in relation to those goods"* and *"A person shall not offer to supply, display or supply any particular goods at a later date other than the expiry date of the goods"*. Consequently, pursuant to Section 67(1) of the same Act, SSP Imports is **fined in the sum of SR. 3, 000/- for the breach of Section 20 and SR. 20, 000/- for the breach of Section 24 of the Consumer Protection, 2010. All fines are to be paid to the Commission not later than thirty (30) days from the date of this ruling.**

[4]The Board of Commissioners shall take this opportunity to further order the respondent, SSP Imports to immediately cease this illegal behaviour as repeated

offences incur greater penalties. The respondent is reminded that as a retailer it is his responsibility to conduct proper checks of the goods being offered to the general public so as to ensure consumer safety as well as compliance with all relevant laws.

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

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

Mr. Colin Jean-Louis
Chairperson

Mr. Philippe Chong-Seng
Commissioner

Mrs. Jenna Thelermont
Commissioner

Mr. Michael Nalletamby
Commissioner