# THE FAIR TRADING COMMISSION

## BEFORE THE BOARD OF COMMISSIONERS

**IN THE MATTER of the Consumer Protection Act, 2010;**

**THE FAIR TRADING COMMISSION**
**VS.**
**SEKAAR @ TAKAMAKA (PTY) LTD**
(Rep herein by Mr. Somu Sekaar Pillay)

CPA.11.207.99-1

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**Complainant** – Fair Trading Commission
**Respondent** – Sekaar @ Takamaka (Pty) Ltd

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

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

**For the Respondent**
Mr. S. Rajasundaram – Attorney-At- Law

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## RULING

[1]Exercising its power to inspect goods pursuant Section 33(1)(j) of the Fair Trading Commission Act, 2009 the Fair Trading Commission conducted a routine inspection of goods on the 6th of April, 2011 at the retail outlet of Sekaar @ Takamaka (Pty) Ltd of Takamaka, Mahe, a company incorporated on the 24th of November, 2009 (See Exhibit 1). The inspection revealed that Sekaar @ Takamaka (Pty) Ltd, now the respondent herein was in contravention of Section 24(1) of the Consumer Protection Act, 2010 which provides as follows;

*"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."*

[2]All relevant parties convened before the Board of Commissioners on Wednesday 9th April, 2014 for a formal hearing. Ms. Emily Mousbé, the Legal Officer of the Fair Trading Commission presented the Commission's findings against Sekaar @ Takamaka (Pty) to the Board through documentary evidence (See Exhibit 2, 3 & 4). Ms. Mousbé 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 while mentioning that the respondent was a first time offender. Ms. Mousbé also urged the Board to enforce Section 68(1) of the Act where applicable.

[3]Mr. Rajasundaram, Counsel for the respondent conceded to the complaint and accepted liability for the said breach of the Consumer Protection Act, 2010 and mitigated that by doing so the respondent has shown remorse for the said unlawful act. Mr. Rajasundaram added that the inspection by the Commission was carried out prior to the sale of the items and was instructed that upon seizure the said goods were returned to the suppliers, therefore, the respondent has not profited from the goods. Mr. Rajasundaram concluded by praying to the Board to consider imposing the minimum financial penalty.

[4]The Board of Commissioners deliberated on the matter and has taken into account all the evidence produced and submissions from both sides. The Board takes note of Exhibits 2 and 4 which reveal that the respondent was found to be displaying and offering for sale three hundred and ninety-nine (399) different items at a date later than the expiry date of those items. That being the case the Board of Commissioners hereby finds Sekaar @ Takamaka (Pty) Ltd to be in contravention of Section 24(1) of the Consumer Protection Act, 2010. In deciding a suitable penalty the Board has considered the fact that the respondent is a first offender and has admitted to the breach as well as the amount of items not conforming to the Act discovered by officers of the Fair Trading Commission that fact that some items had been expired since 2010. The Board of Commissioners hereby imposes a fine in accordance with Section 67(1) of the Consumer Protection Act, 2010 in the sum of **SR.10,000 on the respondent, Sekaar @ Takamaka (Pty) L td, to be paid to the office of the Fair Trading 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 and Section 77 of the Consumer Protection Act, 2010).

[6]We so order.

Pronounced by us on this 11th day of June, 2014.

**Mr. Colin Jean-Louis**
**Chairperson**

**Mr. Philippe Chong-Seng**
**Commissioner**

**Mrs. Jenna Thelermont**
**Commissioner**

**Mr. Michael Nalletamby**
**Commissioner**

**Mr. Victor Pool**
**Commissioner**