THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
SEKAAR'S SHOPPING CENTRE
(Rep herein by Mr. Somu Sekaar Pillay)

CPA.11.207.99-2

Complainant – Fair Trading Commission
Respondent – Sekaar's Shopping Centre

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

RULING

[1]Pursuant to 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 14th of October, 2011 at the retail outlet of Sekaar's Shopping Centre of Les Canelles, a company registered in the Seychelles on the 5th of February, 1999 (See Annex 1). The inspection revealed that Sekaar's Shopping Centre, now the respondent herein was in contravention of Section 24(1) of the Consumer Protection Act, 2010 by offering for sale five hundred ninety-seven (597) items at a date later than the expiry date of those items (See Annexes 2 & 4). Those goods, which would have accumulated a retail value of approximately SR.7,900 were seized and boxed for immediate removal and the respondent was served with a compliance notice (See Annex 3).

[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 the respondent and prayed that the Board considers Section 67(1) of the Consumer Protection Act, 2010 and imposes appropriate penalties while having regards to Section 67(3) of the same Act. Ms. Mousbé also urged the Board to enforce Section 68(1) of the Act where applicable for instance taking into account that the respondent was a first time offender.

[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 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 and hereby finds Sekaar's Shopping Centred to be in contravention of Section 24(1) of the Consumer Protection Act, 2010. In deciding a suitable penalty the Board has considered the behaviour of the respondent having admitted to the breach and being a first offender. In accordance with Section 67(1) of the Consumer Protection Act, 2010 the Board of Commissioners shall impose a fine in the sum of **SR.10,000 on the respondent, Sekaar's Shopping Centre, 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