THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
SUNDAR & CO
(Rep herein by its director Mr. Soundararajan Velayutham Padayachy)

CPA.INS12

Complainant: The Fair Trading Commission
Respondent: Sundar & Co
(Mr. S. V. Padayachy)

QUORUM

Mrs. Vijaykumari (Dolly) Tirant – Commissioner (Chairperson)
Mr. Philippe Chong-Seng – Commissioner
Mrs. Jenna Thelermont - Commissioner

For the Complainant

Mr. Georges Tirant – Director for Consumer Protection Affair (FTC)
Ms. Aaishah Gerry – Assistant Legal Officer (FTC)
Ms. Loraine Fred – Enforcement Officer (FTC)
Mr. Angello Lesperance – Enforcement Officer (FTC)
Mr. Jude Bistoquet – Enforcement Officer (FTC)

For the Respondent

Mr. Muthamith Sundar Padayachy
Mr. Rajmohamed Sirajudeen

Case presented on behalf of the complainant by Mr. Georges Tirant, Director for Consumer Protection Affairs (FTC)

RULING

[1]Pursuant to Section 33(1) of the Fair Trading Commission Act, 2009 inspections of goods were carried out on Praslin on the 6th July, 2012 with the objective of ensuring compliance with the provisions of the Consumer Protection Act, 2010. Amongst the three shops

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inspected that day the respondent herein, Sundar & Co of Baie Ste Anne, Praslin, a company incorporated on the 13th May, 2002 (See Annex 1), was found to be in possession of and offering to sell goods past their expiry date (See Annex 3) as well as goods that are considered unsafe (See Annex 4). The items were listed and a Prohibition Notice served on the respondent together with a Compliance Notice with a delay time of fourteen days for full compliance wherefore the expired goods were immediately removed and placed in a carton box for disposal which goods amounted to a combined retail price of SR. 4,125.12/-.

[2]At the hearing of the case on Wednesday 25th July, 2012 the respondent was represented by Mr. Muthamith Sundar Padayachy and Mr. Rajmohamed Sirajudeen whereby the former explained that this incident occurred because they did not have proper care or proper note of what they were doing. That they were still running their shop manually but are in the process of setting up electronic devices, including a computerised system to aid them especially when it comes to counting the many goods purchased. Mr. Padayachy added that they sometimes encounter problems when purchasing products from wholesalers who at times supplies products with different expiry dates in the same carton therefore some expiry dates are closer than others. To this the Board was of the view that as a customer and a supplier the respondent has an obligation to consumers to check all items on sale on his premises. The respondent concluded his testimony by ensuring the Board of Commissioner that from now on they will have proper management of their business. This however, does not take away from the current situation.

[3]With that being said, the Board has viewed all the evidence produced before it and finds the respondent to be in contravention of Section 24(1) of the Consumer Protection Act, 2010 which provides that *"A person shall not supply, display or supply any particular goods at a date later than the expiry date of the goods"*, as well as Section 50(1)(a) which in turn provides that *"A person shall not, in trade or commerce supply any consumer goods which fail to comply with the general safety requirements;"*. Pursuant to Section 67(1) we shall **impose a fine in the sum of SR. 10, 000/- as penalty for the said contraventions to be paid not later than thirty (30) days from the date of this ruling.** We rule accordingly.

[4]The respondent is free to appeal against this ruling.

Ruling pronounced by us on this 14th day of November, 2012

Mrs. Vijaykumari D. Tirant	**Mr. Philippe-Chong-Seng**	**Mrs. Jenna Thelermont**
Commissioner	**Commissioner**	**Commissioner**
(Chairperson)		