THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
TECHNO SERVICES (PTY) LTD
(Rep herein by Mr. Alex Nicoletti)

CPA.12.150

Complainant - Mrs. Anne Lesperance
Respondent – Techno Services (Pty) Ltd
(Rep herein by Mr. Alex Nicoletti)

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
Mrs. Aaishah Molle – Assistant Legal Officer (FTC)

For the Respondent
Mr. Alex Nicoletti

Case presented on behalf of the Complainant by Mrs. Aaishah Molle, Assistant Legal Officer, FTC.

RULING

[1]A case against Techno Services (Pty) Ltd, a registered company in the Seychelles trading in hardware supplies based at Providence and the respondent herein, was presented before the Board of Commissioners on Wednesday 12th June, 2013 as a

result of a complaint lodged by one Mrs. Anne Lesperance, a resident of Grand-Anse, Praslin, on 4th September, 2012. The complainant alleged that on the 28th June, 2012 she ordered building fittings and fixtures for her bathroom and toilettes. That she paid to the respondent the sum of €3, 852/- being 80% of the total sum of the transaction. Till the date the Commission registered the complaint the respondent had not delivered to the complainant the consignment ordered. This was a clear contravention of Section 40(1)(a) of the Consumer Protection Act, 2010 which provide that *"Subject to this part, where a supplier undertakes to perform any service for or on behalf of a consumer, the supplier shall – (a)perform and complete that service in a timely manner and give to the consumer timely notice of any unavoidable delay in the performance of the service;"*

[2]From the outset the respondent did not contest any of the allegations made and admitted to contravention. Mr. Nicoletti intimated to the Commission that he was ready to fully refund the complainant the sum of €3, 852/- plus an extra €300/- as compensation in September, 2013 or in three instalments starting from the end of July, 2013. This proposition was communicated to the complainant who in turn refused and expressed that she would prefer a full refund.

[3]The Board of Commissioners deliberated on the circumstances of the case. The Commissioners took into account the documentary evidence placed before it, the proposition of the respondent as well as the stance of the complainant on the matter and came to a decision that the proper method of redress for the complainant at this stage would be for the Board to accept an undertaking consented to and signed by the respondent pursuant to Section 75 of the Consumer Protection Act, 2010 which provides that *"The Commission may accept a written undertaking given by a person for the purposes of this section in connection with a matter relating to the Commission's functions under this Act."* The undertaking is to the effect that **the respondent pays the sum of €1, 400/- at the end of July, August and September respectively amounting to a total sum of €4,200/- which includes the full refund of the €3, 852/- paid to the respondent and €348 compensation to the complainant. All payments are to be made at the offices of the Fair Trading Commission.**

[4]At this juncture the Board would wish to urge the respondent to take note that as per **Section 70 of the Consumer Protection Act** *"A person who fails or refuses to comply with an order, direction or undertaking of the Commission or order or direction of the Tribunal, commits an offence and is liable on conviction – (a) where*

the person is an individual, to a fine not exceeding 100, 000 rupees or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment; (b) where the person is a person other than an individual to fine not exceeding 400, 000 rupees."

[5]The above undertaking attached hereto is endorsed as settlement of this case. We so order.

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

Pronounced by us on the 12th day of June, 2013.

Mr. Colin Jean-Louis
Chairperson

Mr. Philippe Chong-Seng
Commissioner

Mrs. Jenna Thelermont
Commissioner

Mr. Michael Nalletamby
Commissioner

Mr. Victor Pool
Commissioner

Undertaking given to Fair Trading Commission pursuant to section 75 of the Consumer Protection Act 2010

Case No. : CPA .12.150

Date: 12th June 2013

Name: **Alex Nicoletti**
Victoria, Mahe

I, **Alex Nicoletti** hereby gives an undertaking to the Fair Trading Commission pursuant to section 75 of the Consumer Protection Act 2010. The undertaking is as follows:

(a) To refund Mrs. Anne Lesperance the sum of € 3852.00 Euros plus interest amounting to € 348.00 Euros.

a. The first instalment shall be paid by the end of July 2013 for the sum of € 1400.00
b. The second instalment shall be paid by the end of August 2013 for the sum of € 1400.00
c. The last instalment shall be paid by the end of September 2013 for the sum of € 1400.00

I, **Alex Nicoletti** acknowledge and accept that this Undertaking in no way derogates from the rights and remedies that may be available to any other person arising from my conduct.

I further acknowledge that:-

a) the Commission may publish and publicly refer to this Undertaking and

b) I, **Alex Nicoletti** will be liable to a fine on conviction under Section 70 of the Consumer Protection Act 2010 for a failure or refusal to comply with this undertaking.

.....
Mr Alex Nicoletti
Val d'en Dor
Baie Lazare
Mahe, Seychelles

This 12th day of June 2012

Accepted by the Board of Commissioners
pursuant to section 75 of the
Consumer Protection Act 2010

.....
Mr. Colin Jean-Loius
Chairperson

FTC
Fair Trading Commission
Seychelles

This 12th day of June 2013

All payments shall be made at the Fair Trading Commission, Block B Unity House, Room 302.