THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
VV SUPERMARKET
(Rep herein by Mr. S. Venkatesan Naidu)

CPA.INS12.P002

Complainant: The Fair Trading Commission
Respondent: VV Supermarket
(Rep by Mr. S. Venkatesan Naidu)

QUORUM
Mr. Philippe Chong-Seng – Commissioner (Chairperson)
Mrs. Jenna Thelermont – Commissioner
Mrs. Annie Vidot – Commissioner

For the complainant
Ms. Aaishah Gerry – Assistant Legal Officer (FTC)

For the respondent
Mr. S. Venkatesan Naidu

Case presented on behalf of the complainant by Ms. Aaishah Gerry, Assistant Legal Officer (FTC)

RULING

[1]In accordance with Section 33(1)(j) of the Fair Trading Commission Act, 2009 inspections of goods were carried out in Cascade on the 26th July, 2012 with the objective of ensuring compliance with the provisions of the Consumer Protection Act, 2010. Amongst the four shops inspected that day the respondent herein, VV Supermarket, a registered business (See Annex 1) was found to be in contravention of Section 24(1) of the Consumer Protection Act, 2010 by being in possession of and offering to sell goods past their expiry dates (See Annex 3). Being expired those goods are considered unsafe and therefore

amounting to a further contravention of the same Act, namely Section 50(1) which provides that person shall not in trade or commerce supply, expose, offer or agree to supply any consumer, or possess, goods which fail to comply with the general safety requirement. Those goods, comprising of twenty different items with a combined retail value of SR.1,783.95/-, were listed, seized, placed in a carton box for disposal and the respondent served with a Prohibition Notice (Annex 4).

[2]When the matter was heard before the Board of Commissioners on Wednesday 12th September, 2012 Mr. S. Venkatesan Naidu representing the respondent, VV Supermarket, produced evidence of disposal of the expired goods namely the receipts from STAR Seychelles dated 30th July, 2012 (See Respondent Exhibit 1). Although Mr. Naidu accepted responsibility for his actions he expressed his discontent with certain wholesalers who trick retailers when purchasing goods by delivering products with different expiry dates in the same carton and this in turn misleads retailers like himself when stacking their shelves. The respondent added that previously he had certain measures in place to address the expired goods issue such as reducing the price of the products that he was aware of one month before the expiry date. The Board was displeasured when Mr. Naidu informed the panel that save for the former he did not have any other preventive measures in place to ensure compliance with law, for instance regular checks of displayed products but instead he was relying on complaints from consumers for him to act. The respondent concluded his testimony by assuring the Board that presently there were no expired goods in his shop, that he now checks the display regularly to ensure that all the products being offered on sale were in conformity with the law and prayed for consideration as he was a small business owner.

[3]We have studied all the evidence placed before us and have taken into consideration the recommendations of the Commission as well as the testimony of the respondent herein and find that the respondent was indeed in contravention of Section 24(1) of the Consumer Protection Act, 2010 by offering to sell goods past their expiry dates which goods are rendered unsafe by Section 50(1) of the same Act. It is our considered view that although the respondent has had a positive behaviour throughout this entire process and has been very co-operative towards the Commissioner by promptly complying with the Prohibition Notice served on him and setting up new measures so as not to repeat the offence we cannot ignore the fact that the respondent was acted irresponsibly as a retailer and because of such the law was contravened.

[4]Following due considerations, in accordance with Section 67(1), we find that **a fine in the sum SR. 6, 000/- to be paid not later than thirty (30) days from the date of this ruling** is a suitable penalty for the above contraventions. We so order.

[5]The respondent is free to appeal against this decision.

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

Philippe Chong-Seng (Mr.)	**Jenna Thelermont (Mrs.)**	**Annie Vidot (Mrs.)**
Commissioner	**Commissioner**	**Commissioner**
(Chairperson)		