THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION **Complainant**

VS.

VADAMALAIAN BEOLIERE SUPERMARKET **Respondent**
(Rep herein by Mr. Ponnilavan Ponselvan)

CPA.INS.090513.4

QUORUM:
Mr. Colin Jean-Louis – Chairperson
Mrs. Jenna Thelermont – Commissioner
Mr. Michael Nalletamby – Commissioner

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

For the Respondent
Mr. Ponnilavan Ponselvan

RULING

[1]Pursuant to Section 33(1)(j) of the Fair Trading Commission Act, 2009 a routine inspection of goods was carried out at different retail outlets on the 9th of May, 2013. Vadamalaian Beoliere Supermarket, a licensed retailer and now respondent herein was duly inspected and found to be displaying for sale two hundred and eight items at a date later than the expiry date of those items contrary to Section 24 of the Consumer Protection Act, 2010. Those expired items would have accumulated a retail value of SR. 6, 858. 47/- (See Exhibits 1, 2 and 3). Through a prohibition notice served Vadamalaian Beoliere Supermarket was prohibited to supply, offer or agree to supply, exposing or possessing for supply those expired items (See Exhibit 4). The Respondent duly disposed of the goods in question as directed by the Commission (See Exhibit 6).

[2]When appearing before the Board on Thursday 29th August, 2013 to hear the matter Mr. Ponnilavan Ponselvan, for the Respondent, provided no reasonable justification that could possibly sway towards this behaviour being excused. Nonetheless he apologized for this first time breach and provided proof that the expired items had been disposed as instructed by the Commission (See Exhibit 6). He prayed for leniency while assuring the Board that the incident would not be repeated. Ms. Emily Mousbe, on behalf Commission/Complainant on the other hand had no difficulty in defending her stance that the acts of the respondent should not be condoned even more so in view that some items had been expired since 2012. She therefore requested the Board to impose penalties as set out in Section 67(3) of the Consumer Protection Act, 2010 to act as a deterrent to such behaviour especially when weighing the risks to consumer health and safety but still having regard to Section 68(1) of the same Act.

[3]The Board of Commissioners has taken into account all the evidence before it. There is no argument that the respondent has contravened Section 24 of the Consumer Protection Act, 2010 and hereby enters such a finding. Pursuant to Section 67(3) the Board shall impose on the **respondent a fine of SR. 10, 000/- as penalty for the above contravention to be paid to the Commission not later than thirty (30) days from the date of this ruling.** We rule accordingly.

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

Pronounced by us on this 16th day of October, 2013.

Mr. Colin Jean-Louis
Chairperson

Mrs. Jenna Thelermont
Commissioner

Mr. Michael Nalletamby
Commissioner