



Board of Commissioners Ruling

The following case was heard and adjudicated on by the Board of Commissioners in relation to the Consumer Protection Act 2010:

In a ruling pronounced on the 30th of August 2018, the Board of Commissioners of the Fair Trading Commission found Messrs. Danny Baronne and Daniel Baronne the respondents in **Case No. CPA.15.123 C. Barbe v Danny Baronne and Daniel Baronne** to be in breach of **Section 40(1)(b)** of the Consumer Protection Act, 2010.

The facts as outlined and presented by the Fair Trading Commission (FTC) on behalf of the complainant states that the complainant had paid the respondents the sum of SCR 310, 000 for the construction of her dwelling house. The respondents work done was not up to standards and the complainant requested for a refund for incomplete and remedial works as per the independent quantity surveyor's report for the sum of SCR 32,471.

The respondents did not contest the incomplete works, however they argued that they should not be ordered to refund as per the quantity surveyor's report given that they were ready to remedy the defects identified and they were not present on site during the quantity's surveyors visit, hence the report did not contain their input.

Taking all the evidence presented on behalf of the parties involved into consideration, the Board of Commissioners found the respondent to be in contravention of Section 40 (1) (b) of the Consumer Protection Act, 2010. The Board of Commissioners however agreed with the respondent's position with regards to his lack of input in the Quantity Surveyor's report and held that "whenever assessing and evaluating works done by someone that person should be present to ensure that the evaluation reflects the true state of affairs". Whilst it could not "ignore its contents" the Board said it could not rely fully on the report and ordered a refund of SCR.4,586 as per section 40(2)(b) of the Consumer Protection Act 2010.

It is to be noted that the parties are free to appeal against this ruling to the Appeal tribunal as per Section 44 of the Fair Trading Act 2009 and Section 77(1) Consumer Protection Act 2010.

Complete rulings of the Board of Commissioner can be accessed via website (www.ftc.sc) or viewed at the FTC office.