

## CONSENT AGREEMENT

THIS AGREEMENT is made the 19<sup>TH</sup> day of NOVEMBER, Two Thousand and Eight BETWEEN the FAIR TRADING COMMISSION, a Body Corporate with offices at 52 Grenada Crescent, Kingston 5, in the parish of Saint Andrew (hereinafter referred to as "the Commission") of the FIRST PART and BENT/SPEARE ENTERTAINMENT LIMITED, a Company duly registered under the Laws of Jamaica with registered offices at Old Stony Hill Road, 21 Casa Monte Apartments, Kingston 8, in the parish of Saint Andrew (hereinafter referred to as the "the Respondent") of the SECOND PART.

### WHEREAS:

1. In December 2006 the Commission received 2 complaints against the Defendant.
2. The persons who brought the complaint (the Informants) asserted that in December 2006 the Respondent scheduled a concert titled 'Welcome to Jamrock' to be held on December 22, 2006 at the Constant Spring Football Field. The Respondent advertised that 'Advanced VIP' tickets (hereinafter referred to as 'pre-sold VIP tickets') were being sold for \$3,000.00 and VIP tickets would be sold at the gate for \$3,500.00; but in fact pre-sold tickets were being sold for \$3,500.00.
3. The Commission investigated the complaint and concluded that the Respondent's conduct constituted a breach of Section 37 of the Fair Competition Act which prohibits businesses from making to the public, representations that are false, misleading or likely to be misleading.
4. The Commission informed the Respondent of the breach, and directed that if it intended to continue its sales of 'pre-sold VIP tickets', such tickets must be sold at the price advertised.

5. The Respondent recognized that its actions were likely to mislead members of the public and, as a consequence, it complied with the Commission's said directive.
6. As the offence of Misleading Advertising pursuant to Section 37 of the Act is one of absolute liability and the harm was done, the Commission proceeded to file Suit against the Respondent. Suit was filed on February 7, 2007 contending that the Respondent had breached Section 37 of the Fair Competition Act. The Suit is numbered CD00001 of 2007.

**IT IS HEREBY AGREED BETWEEN THE PARTIES THAT:**

1. Pursuant to Rules 5 and 9 of the *Fair Competition (Notices and Procedures) Regulations 2000*, the Respondent will pay the Commission *Four Hundred and Sixty-Three Thousand Seven Hundred and Twenty Dollars and Ten Cents (\$463,720.10)* by way of costs incurred in the investigation of the complaint. The said sum shall be paid in three (3) installments in the manner and on the dates specifically described in Item 1 of the Schedule hereto.
2. Pursuant to Rule 8 the *Fair Competition (Notices and Procedures) Regulations 2000*, the Respondent shall issue a public apology, to be drafted and approved by the staff of the Commission, in the Gleaner newspaper for two consecutive weeks. The wording and dimensions of the apology shall be according to the exact specifications of the Commission as contained in Item 2 of the Schedule and in accordance with the example contained therein.
3. The terms of this Consent Agreement shall be endorsed on the records of the aforesaid Suit 06HCV01617 in the Supreme Court of Judicature of Jamaica.

4. The Respondent shall not make any public reference to this Agreement without the prior consent of the Commission.
5. The Commission reserves the right to use the facts of this complaint referred to herein, in its public education programme, without recourse to the Respondent.
6. The parties hereto will waive any and all further procedural steps, all rights to seek judicial review or otherwise to challenge or contest the validity of the Agreement. Should the Respondent fail to implement the terms herein agreed, however, the Commission may thereafter either withdraw its acceptance of this Agreement and take such actions as it considers appropriate and so notify the Respondent.
7. The Respondent understands and accepts that the formal proceedings which have been instituted by the Commission will be pursued if it fails to abide by this Agreement.

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## SCHEDULE

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1. The Respondent shall pay to the Commission the sum of Four Hundred and Sixty-Three Thousand Seven Hundred and Twenty Dollars and Ten Cents (\$463,720.10) in three (3) equal installments as follows:
  - 1<sup>st</sup> installment of \$154,573 on or before July 18, 2008;
  - 2<sup>nd</sup> installment of \$154,573 on or before August 15, 2008;
  - 3<sup>rd</sup> installment of \$154,573 on or before September 12, 2008.

2. The Respondent shall issue a notice in the Daily Gleaner newspaper for two consecutive weeks on Wednesday of each week. The notice shall be entitled 'Public Apology'. The font size shall not be less than 20 in *Times New Roman* font-type and the dimensions shall not be less than 18 cm by 15½ cm. The name of the Respondent and the 12<sup>th</sup> to 20<sup>th</sup> words in the first paragraph shall be in bold print. The notice shall generally conform with the example below:

### **Public Apology**

Pursuant to discussions with the Fair Trading Commission, **Bent/Speare Entertainment Limited** apologises to members of the public for any inconvenience caused during the month of December 2006 when it misled or could have misled them by advertisements of its 'Welcome to Jamrock' show. While said advertisements offered advanced sale of VIP tickets for \$3,000 each, those tickets were being sold for \$3,500 each.

The public is hereby advised that the advertisements omitted to indicate a specific cut-off date for such advanced sales.

EXECUTED UNDER THE COMMON SEAL OF  
BENT/SPEARE ENTERTAINMENT LIMITED

BY DIRECTOR

AND DIRECTOR/SECRETARY

IN THE PRESENCE OF

DIRECTOR/SECRETARY



*[Handwritten signature]*  
.....  
DIRECTOR

*[Handwritten signature]*  
.....  
DIRECTOR/SECRETARY

*[Handwritten signature: Gordon]*  
.....  
WITNESS

THE FAIR TRADING COMMISSION

BY CHAIRMAN, DERRICK MCKOY (DR.)

AND COMMISSIONER,

*[Handwritten signature]*  
.....  
WITNESS

*[Handwritten signature]*  
.....  
CHAIRMAN

*[Handwritten signature]*  
.....  
COMMISSIONER