

## CONSENT AGREEMENT

THIS AGREEMENT is made the *25th* day of *May*, 1999 BETWEEN the FAIR TRADING COMMISSION a body corporate with its offices at 52 Grenada Crescent, Kingston 5, in the parish of Saint Andrew (hereinafter called the Commission) of the FIRST PART and SUNSET BEACH RESORT & SPA HOTEL LIMITED (hereinafter called the Resort) of the SECOND PART.

### WHEREAS:

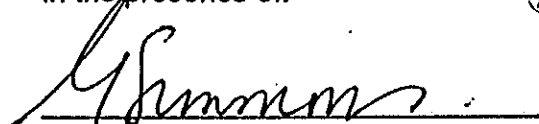
- [1] Major Hugh Blake (hereinafter called the Complainant) lodged a complaint with the Commission alleging that on July 15, 1998, he noticed an advertisement published by the Resort informing the public about a "Special Sunset Package" of Eighty United States Dollars (US\$80.00) per person per night double occupancy.
- [2] On July 16, 1998 the Complainant telephoned the Resort seeking to make reservations for two (2) nights - August 7 and 8, 1998. The Complainant was however informed that the rate per person per night double occupancy is Two Hundred and Twenty United States Dollars (US\$220.00) and not Eighty United States Dollars (US\$80.00) as was advertised. He was further advised that he had to stay a minimum of four (4) nights at the Resort. The advertisement published in the Jamaica Observer Newspaper on July 15, 1998, made no reference to a minimum stop over period.
- [3] The Resort conceded in letter to the Commission dated August 26, 1998 that the advertisement published in the Jamaica Observer Newspaper on July 15, 1998 was misleading but advised that due to Reggae Sumfest which resulted in an increased demand for hotel rooms during the period August 2 - 8, the Resort increased the rate for this period and instituted a minimum stop over period.
- [4] In omitting to disclose in the said advertisement, the facts referred to in paragraph 3 hereof, the Resort contravened Section 37 of the Fair Competition Act (FCA) which provides that businesses should not, in pursuance of trade and for the purpose of promoting the supply or use of goods or services, make a representation to the public that is false or misleading in a material respect.
- [5] The Resort has co-operated with the Commission throughout the investigation of this matter and notwithstanding the fact that Section 37 of the FCA does not require proof of intent, negligence or other mental element, the Commission accepts that the Resort did not act with an intention to mislead the public.

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

- [6] If not already done, the Resort will give the Complainant two (2) nights accommodation at the Resort free of cost.
- [7] The Resort will pay the Commission costs in the sum of Thirty-Six Thousand Dollars (\$36,000.00).
- [8] The parties hereto agree to waive any and all further procedural steps, all rights to seek judicial review, or otherwise to challenge or contest the validity of this Agreement.
- [9] Should the Resort fail to implement the terms herein agreed to within thirty (30) days of the date hereof, the Commission may thereafter withdraw its acceptance of this Agreement and take such action as it considers appropriate and so notify the Resort or issue and serve a Complaint in such form as the circumstances may require.
- [10] The Commission reserves the right to use the facts of the complaint against the Resort in its public education programme. However, should the Commission choose to exercise this right, it will, prior to going to the public, make available to Counsel for the Resort, the text of any script to be used in such public education programme and, in any event, the Press Release agreed by the parties and dated March 22, 1999 in so far as it does not mention the name of the Resort, shall be the pattern on which any script is based.
- [11] The Resort understands and accepts that formal proceedings may be instituted by the Commission if it fails to abide by this Agreement.

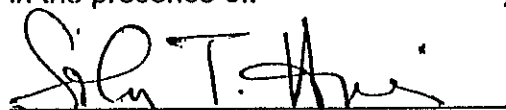
SIGNED for and on behalf of the )  
 Sunset Beach Resort & Spa Hotel )  
 Limited by IAN M. KERR )  
 in the presence of: )

  
 \_\_\_\_\_  
 Managing Director

  
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SIGNED for and on behalf of the )  
 Fair Trading Commission by )  
 )  
 in the presence of: )

  
 \_\_\_\_\_  
 Chairman/Executive Director

  
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