



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

JBD,

Complainant,

- versus -

JI and VVV,

Respondents.

CID 18-D-012

*For: Violation of Data
Privacy Act of 2012*

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RESOLUTION

AGUIRRE, D.P.C.:

This Resolution refers to Complainant's Motion for Extension to Comply with the Order of the National Privacy Commission ("Commission") filed on 04 August 2020 by the Complainant¹ and Respondent VVV's Manifestation and Motion dated 29 July 2020.²

The Facts

The Commission issued an Order dated 21 May 2020³ directing the Complainant to submit a Certified True Copy of the Position Paper containing the SSS documents filed with the Professional Regulatory Commission (PRC), and documents to substantiate the allegations made in paragraph 10 of the Verified Reply dated 13 August 2018 which refers to the findings of the SSS Fraud and Legal Department.

On 04 August 2020, Complainant filed a Motion for Extension to Comply with the said Order citing the lockdown of the PRC's Legal Division from 20 July 2020 to 27 July 2020, and the present classification of the National Capital Region (NCR) as an area placed under Modified Enhanced Community Quarantine (MECQ). Complainant specifically requests that he be given until 02 September 2020 to comply with the said Order.⁴

¹ Motion for Extension to comply with NPC Order filed on 4 August 2020.

² Motion and Manifestation dated 29 July 2020.

³ NPC Order dated 21 May 2020.

⁴ Motion for Extension to Comply with NPC Order filed on 4 August 2020, pp. 1-2.

On the other hand, Respondent VVV filed his Manifestation and Motion dated 29 July 2020 requesting the Commission to order the Complainant to furnish him a copy of the Verified Reply and allow him to file a Rejoinder. Respondent VVV claims that under Section 15 of NPC Circular 16-04, the respondent may file a Rejoinder after receipt of the Reply from the complainant. Respondent VVV also moved that his other prayers be granted, namely, to (a) note their manifestation; (b) hold in abeyance any clarificatory hearing pending the consideration of his Manifestation and Motion; and (c) note his counsel's entry of appearance.⁵

Discussion

The Commission grants Complainant's Motion for Extension to Comply with the Commission's Order as well as Respondent VVV's Manifestation and Motion.

As to Respondent VVV's Manifestation and Motion for them to file their Rejoinder, Section 15 of NPC Circular 16-04 is applicable. The said section provides that:

Following the receipt of the Discovery Conference Report, the investigating officer shall issue an Order directing the respondent or respondents, as the case may be, to submit within ten (10) days from receipt thereof, a responsive Comment to the Complaint, together with any supporting documents the respondent or respondents may have, including the affidavits of any of the respondents' witnesses, if any. **The investigating officer, upon his or her discretion, may require the complainant to file a Reply within ten (10) days after receipt of the Order requiring the filing of a Reply. Such an Order may also require the respondent to file a Rejoinder within ten (10) days after receipt of the Reply.**⁶

Considering the above-quoted provision, the filing of both Reply and Rejoinder is dependent upon the discretion of the investigating officer. As provided therefor, the investigating officer may issue an Order requiring complainant to file a Reply and in the same Order, the respondent may also be required to file a Rejoinder within the said periods. Being discretionary, the investigating officer may therefore choose not to require both the complainant to file a Reply and the respondent to file a Rejoinder if he or she deems it not necessary. It follows that the investigating

⁵ Manifestation and Motion dated 29 July 2020, p. 2.

⁶ Emphasis supplied.

officer may also require the complainant to file a Reply without requiring the respondent to file a Rejoinder.

In the Order dated 12 July 2018,⁷ while the Commission had required Complainant to file a Reply, there was however no Order requiring Respondent to file a Rejoinder. The said Order merely provided that:

Respondents are hereby ordered to file their Responsive Comment within ten (10) days from 12 July 2018 or until 22 July 2018. **Complainant is also given ten (10) days from receipt of the Responsive Comment to file his Reply.**⁸

There was also no showing that a separate Order was issued requiring the filing of a Rejoinder. Thus, Respondent VVV's assertion that he can file a Rejoinder after a Reply pursuant to NPC Circular 16-04 is erroneous. Under the said Circular, the investigating officer must first require the respondent to file a Rejoinder.

Be that as it may, in the interest of justice and due process, the Commission grants the Motion of Respondent VVV that Complainant be ordered to furnish him a copy of his Verified Reply and that he be allowed to file his Rejoinder. His other prayers are also found reasonable in light of the facts of the case.

As to the Motion for Extension to Comply with the Commission's Order filed by the Complainant, the same is justified in view of the limitations brought about by the present COVID-19 pandemic and the reversion of the NCR to MECQ.

WHEREFORE, premises considered, Complainant's Motion for Extension to Comply with the Commission's Order until 02 September 2020 is hereby **GRANTED**. Complainant is **ORDERED** to furnish the Respondents a copy his Verified Reply within ten (10) days from receipt of this Resolution.

Respondent VVV's Motion to Order the Complainant to furnish him a copy of the Verified Reply and his prayers for the Commission to (a) Note his Manifestation; (b) Hold in abeyance any clarificatory hearing pending the consideration of his Manifestation, and (c) Note his counsel's entry of appearance, are

⁷ Order dated 12 July 2018.

⁸ Emphasis supplied.

hereby **GRANTED**. Respondent is also **ORDERED** to submit his Rejoinder within ten (10) days from receipt of the Verified Reply.

SO ORDERED.

Pasay City, Philippines;
06 August 2020.

Sgd.

LEANDRO ANGELO Y. AGUIRRE
Deputy Privacy Commissioner

WE CONCUR:

Sgd.

RAYMUND ENRIQUEZ LIBORO
Privacy Commissioner

Sgd.

JOHN HENRY D. NAGA
Deputy Privacy Commissioner

COPY FURNISHED:

JBD
Complainant

VVV
Respondent

JI
Respondent

BACCAY HUSSIN & VISCONDE
Represented by Atty. KLR