



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

**IN RE: FAMILYHAN CREDIT
CORPORATION**

NPC SS 20-001

*For: Violation of the Data
Privacy Act (DPA) of 2012*

**Initiated as an Independent NPC
Investigation into the Possible
Data Privacy Violations
Committed by Familyhan Credit
Corporation**

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ORDER

This refers to the Motion to Lift Cease and Desist Order filed by Familyhan Credit Corporation (Familyhan) dated 21 June 2021.

Facts

On 15 October 2020, the Commission ordered Familyhan to cease and desist from the processing of personal data on their database:

WHEREFORE, premises considered, Familyhan Credit Corporation and its responsible officers and members of the board, MTR, VBV, JPV, AA, and MDA are hereby ordered to:

- 1) File a **COMMENT**, within ten (10) days from receipt of this Order, on the allegations in the attached Fact Finding Report, pursuant to Section 24 of the NPC Rules of Procedure; and
- 2) **CEASE AND DESIST** from the processing of personal data on their database until the Commission issues a decision on the submission of the Comment, which shall be made no more than thirty (30) days from the expiration of the period to file a Comment or of the termination of the clarificatory hearing if one is held, pursuant to NPC Circular No. 20-02.

SO ORDERED.¹

¹ Order dated 15 October 2020.

On 25 January 2021, Familyhan filed its Comment to the Cease and Desist Order (CDO) and prayed that the Order and the initial findings of the Commission be reconsidered and dismissed:

WHEREFORE, premises considered, it is most respectfully prayed unto this Honorable Office that the Initial findings of the Commission and the ORDER to CEASE AND DESIST from the processing of personal data on their database be RECONSIDERED AND DISMISSED for lack of merit.

Other reliefs just and equitable under the circumstances are likewise prayed for.²

On 23 February 2021, the Commission issued an Order sustaining the CDO issued against Familyhan:

WHEREFORE, premises considered, the Cease and Desist Order issued against Familyhan Credit Corporation and its responsible officers and members of the board, MTR, VBV JPV, AA, and MDA to cease and desist from the processing of personal data on Familyhan's database is hereby sustained until modified or lifted by the Commission upon showing that the factual or legal basis for which it was issued no longer exists.

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On 21 June 2021, Familyhan filed a Motion to Lift the Cease and Desist Order.⁴ The grounds alleged by Familyhan to lift the CDO are:

1. It stopped processing personal data on its database and ordered all its Loan Agents to discontinue processing personal data on its database. As further security, the access to its system was immediately cut off by the IT Department;⁵
2. In accordance with Section 12 of NPC Circular No. 20-02, the CDO to which it filed a Comment on 25 January 2021 is deemed automatically lifted;⁶ and

² Comment (to the Order of the NPC dated 15 October 2020) dated 25 January 2021.

³ Order dated 23 February 2021.

⁴ Motion to Lift Cease and Desist Order dated 21 June 2021.

⁵ Ibid. at par. 2.

⁶ Ibid at par. 5-6.

3. The basis for which the CDO was issued no longer exists as it had already implemented measures to address the incident.⁷

Discussion

Section 4 of NPC Circular No. 20-02 (Rules on the Issuance of Cease and Desist Orders) provides the grounds for the issuance of a CDO:

Section 4. Grounds for the Issuance of Cease and Desist Order.
- No CDO shall be issued unless it is established by substantial evidence that all of the following concur:

- A. the Adverse Party is doing, threatening or is about to do, is procuring to be done, some act or practice in violation of the DPA, its IRR, or other related issuances;
- B. such act or practice is detrimental to national security or public interest, or the CDO is necessary to preserve and protect the rights of a data subject; and
- C. the commission or continuance of such act or practice, unless restrained, will cause grave and irreparable injury to a data subject.⁸

A CDO is issued by the Commission against acts which are potentially harmful and in violation of the Data Privacy Act of 2012 to mitigate the harm that it produced. The lifting of a CDO is dependent on whether such harmful acts had been addressed and remedied to avoid further harm to data subjects. Section 15 of NPC Circular No. 20-02 provides:

Section 15. Motion to Lift Extended CDO. - At any time during the effectivity of the extended CDO, the Adverse Party may file a motion to lift said order on the ground that **the factual or legal basis for which it was issued no longer exists**, furnishing a copy thereof to the applicant. The motion shall contain or specify the material facts establishing the ground/s relied upon, the relevant documentary, testimonial and object evidence supporting the motion, and the proof of service of the copy of the motion to the applicant.⁹

⁷ Ibid. at par. 7

⁸ NPC Circular No. 20-02, Rules on the Issuance of Cease and Desist Orders, Section 4.

⁹ Section 15, NPC Circular No. 20-02.

To properly determine whether the issues sought to be prevented by the CDO have been satisfactorily addressed, the Commission resolves to order the Applicant of the CDO, the Complaints and Investigation Division (CID) of the National Privacy Commission, to submit its Comment or Opposition to Familyhan's Motion, pursuant to Section 16 of NPC Circular No. 20-02 which provides:

Section 16. Comment or Opposition to the Motion. - The applicant may file a comment/opposition to the motion to lift within ten (10) days from receipt thereof and furnishing a copy thereof to the Adverse Party. It shall contain the relevant documentary, testimonial and object evidence supporting its position, and shall specify the material dates relevant to the same and proof of service of the copy of the Comment/Opposition to the Adverse Party.¹⁰

WHEREFORE, premises considered, the Commission hereby **ORDERS** the Complaints and Investigation Division to **COMMENT** on the Motion within ten (10) days from receipt of this Order.

SO ORDERED.

City of Pasay, Philippines.
24 June 2021.

Sgd.
LEANDRO ANGELO Y. AGUIRRE
Deputy Privacy Commissioner

WE CONCUR:

Sgd.
RAYMUND ENRIQUEZ LIBORO
Privacy Commissioner

¹⁰ Section 16, NPC Circular No. 20-02.

Sgd.
JOHN HENRY D. NAGA
Deputy Privacy Commissioner

COPY FURNISHED:

JRO
Counsel
Familyhan Credit Corporation

AVM
Collaborating Counsel
Familyhan Credit Corporation

SMA
President
Familyhan Credit Corporation

RA
Vice President
Familyhan Credit Corporation

MRO
Treasurer
Familyhan Credit Corporation

MJR
Corporate Secretary
Familyhan Credit Corporation

PPM
Director
Familyhan Credit Corporation

COMPLAINTS AND INVESTIGATION DIVISION
ENFORCEMENT DIVISION
GENERAL RECORDS UNIT
National Privacy Commission