



Republic of the Philippines  
NATIONAL PRIVACY COMMISSION

**IN RE: FYNAMICS LENDING  
INC. OPERATING PONDOPESO  
ONLINE LENDING  
APPLICATION**

**NPC No. 19-910**  
*For violation of  
the Data Privacy  
Act of 2012*

x-----x

**RESOLUTION**

On 30 August 2019, the Commission issued an Order requiring Fynamics Lending Inc. and its responsible officers to submit their respective Answers to the allegations in the Fact-Finding Report within ten (10) days from receipt thereof.

Consequently, upon receipt of the said order on 5 September 2019, individual respondents KF, JCG and HAD, through counsel, submitted their Appearance and Motion for Extension to file Answer and prayed that the Commission grant an additional period of ten (10) days from 16 September 2019, or until 26 September 2019, within which to file their responsive pleading.

For their part, respondents Fynamics Lending Inc., ML, CW, and BBS, through counsel, submitted on 16 September 2019 their Appearance and Omnibus Motion. They cited the fact that the last day of the 10-day period fell on a Sunday, moving the deadline to the next working day or 16 September 2019. The respondents prayed that the proceedings be suspended pending the resolution of the instant Omnibus Motion and that mediation proceedings be initiated. It was also prayed that the Commission grant the respondents an additional period of fifteen (15) days from 15 September 2019, or until 30 September 2019, to file their responsive pleading.

On 26 September 2019, respondents KF, JCG and HAD, through counsel, another Motion for Additional Time to File Verified Answer and moved for an additional period of ten (10) days from 26 September 2019 or until 06 October 2019 within which to file their responsive pleading.

On 27 September 2019, counsel for respondent Fynamics Lending Inc., the Gonzales & Quismorio Law Offices, filed their Withdrawal of Appearance with the conformity of respondent ML as the respondent corporation's President.

On 30 September 2019, respondent Fynamics Lending Inc., through counsel Romulo Mabanta Buenaventura Sayoc & de los Angeles filed an Entry of Appearance with Motion for Further Extension of Time to File Answer, citing the fact that new counsel has just been engaged. Respondent Fynamics Lending, Inc. moved for an additional period of fifteen (15) days from 30 September 2019 or until 15 October 2019 within which the file their answer.

Upon consideration of the requests of the respondents for additional time to file their Answers, all duly filed within the allowable period of time and not prejudicial to the plaintiff's substantive rights, the Commission grants such motions for additional time as prayed for by the respondents.

As regards the prayer of respondents ML, CW, and BBS for the initiation of a mediation proceeding and the suspension of the proceedings pending the resolution of their Omnibus Motion, the Rule on Alternative Modes of Dispute Resolution under NPC Circular No. 16-04 finds application, thus:

Section 26. Mediation officer. - The Commission shall assign a mediation officer to assist the complainant and respondent to reach a settlement agreement, **provided that no settlement is allowed for criminal acts.**<sup>1</sup> xxx

The instant case was initiated through a *sua sponte* investigation of the National Privacy Commission pursuant to Section 3 of NPC Circular No. 16-04. The Fact-Finding Report noted certain dangerous permissions in the Android Package (APK) of the PondoPeso application that are designed to be indispensable for the application to function,<sup>2</sup> as well as the inaccessibility of a Privacy Policy that provides an explanation of this to the user.<sup>3</sup> Based on these, the Fact-Finding report found that "the apparent failure of the company to abide by the directives of the DPA in the protection of data subjects and their personal information constitute violations of the law."<sup>4</sup> Specifically, the Fact-Finding Report recommends

---

<sup>1</sup> Section 26, emphasis mine.

<sup>2</sup> Fact-Finding Report, p. 11.

<sup>3</sup> *Id.*, at p. 14.

<sup>4</sup> *Id.*, at p. 15.

criminal prosecution for the company, represented by their board of directors, for violations of Sections 25, 28, 31, and 32 of the Data Privacy Act.

Upon consideration of the allegations in the Fact-Finding Report and the existing rules under NPC Circular No. 16-04, the Commission finds that there is no basis for the Commission to grant the prayer of respondents ML, CW, and BBS for the initiation of a mediation proceeding and the suspension of the proceedings pending the resolution of their Omnibus Motion.

WHEREFORE, all premises considered, the Commission resolves to:

- (1) **GRANT** the Motion for Further Extension of Time to File Answer by Respondent Fynamics Lending Inc., allowing the submission of an Answer until 15 October 2019;
- (2) **GRANT** the Motion for Additional Time to File Verified Answer by respondents KF, JCG and HAD, allowing the submission of an Answer until 06 October 2019;
- (3) **GRANT** the prayer for an additional period to file their Answer in the Omnibus Motion by respondents ML, CW, and BBS, allowing the submission of an Answer until 30 September 2019; and
- (4) **DENY** the prayer for the initiation of a mediation proceeding and the suspension of the proceedings pending the resolution of the Omnibus Motion by respondents ML, CW, and BBS

SO ORDERED.

City of Pasay, Philippines  
7 October 2019

**Sgd.**  
**LEANDRO ANGELO Y. AGUIRRE**  
*Deputy Privacy Commissioner*

WE CONCUR:

**Sgd.**  
**IVY D. PATDU**

**Sgd.**  
**RAYMUND ENRIQUEZ LIBORO**

Deputy Privacy Commissioner

Privacy Commissioner

COPY FURNISHED:

**GONZALES & QUISMORIO LAW OFFICES**

*Counsel for Respondents ML,  
CW, and BBS*

**GOROSIN GARCIA & ASSOCIATES**

*Counsel for Respondents KF, JCG  
and HAD*

**ROMULA MABANTA**

**BUENAVENTURA SAYOC &  
DE LOS ANGELES**

*Counsel for Fynamics Lending Inc.*

**ENFORCEMENT DIVISION**

**GENERAL RECORDS UNIT**

National Privacy Commission