JRO, *Complainant,*	**NPC 19-278**
-versus-	
MSMI, *Respondent.*	For: Violation of the Data Privacy Act of 2012

x--x

DECISION

NAGA, *P.C.;*

Before this Commission is a Complaint filed by JRO (JRO) against MSMI (MSMI) for an alleged violation of Republic Act No. 10173, also known as the Data Privacy Act of 2012 (DPA).[1]

Facts

JRO, in his Complaints-Assisted Form dated 27 March 2019 (Complaint), alleged that he had resigned from his employer, MSMI, on 31 December 2018.[2] He was formerly MSMI's Philippine Overseas Employment Administration (POEA) liaison officer/processing officer.[3] Despite his resignation, his personal account, including his name and POEA Code SB-003621, was still used to process MSMI's seafarer transactions through Oller's email address.[4] He learned about this upon verification from the POEA and when he received documents from concerned seafarers.[5]

---

[1] An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for This Purpose a National Privacy Commission, and for Other Purposes, [Data Privacy Act of 2012], Republic Act No. 10173 (2012).
[2] Complaints-Assisted Form dated 27 March 2019 of JRO, at page 3.
[3] *Id.*
[4] *Id.*
[5] *Id.*

JRO alleges that he is "suffering from extreme anxiety, sleepless nights, and mental anguish" due to these actions.[6] He seeks for reasonable damages and permanent revocation of MSMI's POEA license.[7] JRO also seeks for a ban on the processing of personal data due to "unlawful acts which constitute estafa, cybercrime infringements and other criminal, civil and administrative violations."[8]

As proof, JRO attached an image of his POEA ID, Certificate of Employment, and screenshots of various emails allegedly from POEA eServices.[9]

Two screenshots showed the following entries supposedly from POEA eServices:

> [Sent by POEA eServices on 12 Mar, 17:00]
>
> Dear XXXX,
>
> Your Application status has is (*sic)* now Completed by SB-003621: JRO from MSMI agency
>
> xxx
>
> [Sent by POEA eServices on 12 Mar, 16:38]
>
> Dear XXXX,
>
> Your Application status has is (*sic)* now For Printing by SB-003621: JRO from MSMI agency [10]

Forwarded messages from "MA" to JRO contained various messages from the alleged email of POEA eServices (eservices@poea.gov.ph) that relates to the status of the POEA application, containing the following entries:

> Dear XXXX,

---

[6] *Id.,* at page 4.
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] *Id., see* unmarked Annexes.

> Your Application status has is (*sic*) now For Payment by SB-003621: JRO from MSMI agency

> xxx

> Dear MA,

> Your Application status has is (*sic*) now For Printing by SB-003621: JRO from MSMI agency

> xxx

> Dear MA,

> Your Application status has is (*sic*) now Completed by SB-003621: JRO from MSMI agency

> xxx

> Dear MA,

> Your Application status has is (*sic*) now For Contract by SB-003621: JRO from MSMI agency[11]

Another screenshot from "TE" also contains a forwarded message from POEA eServices relating to the status of a POEA Application:

> Dear XXXX,

> Your Application status has is (*sic*) now Completed by SB-003621: JRO from MSM agency[12]

Through the Complaints and Investigation Division (CID), the parties were ordered to appear before the Commission to confer for discovery on 18 June 2019.[13] In the discovery conference, both parties appeared.[14] MSMI, through counsel, manifested that it will be filing a Motion to Dismiss.[15] Thus, it was given fifteen (15) days from the discovery conference to submit the same. Meanwhile, JRO was given fifteen (15) days from receipt of the Motion to Dismiss to file a Comment, with another five (5) days from receipt of the Comment for MSMI to file a Reply.[16]

---

[11] *Id.*
[12] *Id.*
[13] Order to Confer for Discovery dated 24 April 2019, at page 1.
[14] Order dated 18 June 2019, at page 1.
[15] *Id.*
[16] *Id.*

NPC_OPC_ADJU_DCSN-V1.0,R0.0, 05 May 2021

5th Floor, Philippine International Convention Center, Vicente Sotto Avenue, Pasay City, Metro Manila 1307
URL: https//www.privacy.gov.ph Email Add: info@privacy.gov.ph Tel No. 8234-2228

MSMI, through counsel, filed its Motion to Dismiss dated 02 July 2019 (Motion to Dismiss).[17] In the Motion to Dismiss, MSMI stated the following context as part of its defenses:

1. MSMI is a duly licensed manning agency (LMA) which is "engaged in the provision of quality crew manning services to ship owners, ship operators and ship managers engaged in international maritime business."[18] As part of its primary business as an LMA, it "is required by the POEA under Memorandum Circular No. 06-2018…to register with the latter's web-based in-house contract processing system known as the Sea-based e-Contracts System ("SBECS") online in order to have the standard employment contracts of its prospective seafarers processed and approved prior to deployment."[19]

2. In the SBECS registration procedure, an LMA, like MSMI, is mandated to submit to the POEA a Request for Enrollment and Availment of POEA e-Services (REAPS) which contains the complete names and emails of a maximum of three users.[20] Once the registration requirements are met, POEA will enroll and finalize the credentials and machine of the submitted users, and when authenticated, the "SBECS will only recognize that machine and the duly-registered access credentials."[21]

3. The SBECS enables the LMA "to upload scanned copies of their standard employment contracts with prospective seafarers for POEA's processing and approval. Once processing has been completed, notification is sent to the registered e-mail addresses of the LMA-nominated user."[22]

MSMI claims that JRO was employed as its POEA liaison officer from 16 November 2012 up to 31 December 2018, and had the obligation of liaising with POEA, which included processing documents, managing MSMI's accounts, and using the company-supplied computers.[23] Part of JRO's responsibilities was the processing of documents in POEA's system, namely, the Sea-based e-Contracts System (SBECS).[24]

---

[17] Motion to Dismiss dated 02 July 2019 of MSMI
[18] *Id.,* ¶ 1.
[19] *Id.,* ¶ 2.
[20] *Id.,* ¶ 3.
[21] *Id.*
[22] *Id.,* ¶ 4.
[23] *Id.,* ¶¶ 5-6.
[24] *Id.,* ¶ 6(a).

The SBECS was established by the POEA as a "secured web-based facility" developed for licensed manning agencies (LMAs) in order to "submit online 24/7 their request for processing (RFP), pay online the POEA processing and [Overseas Workers Welfare Administration] membership fees, submit online the seafarer's contract and print the electronic Overseas Employment Certificate (OEC) of the seafarers in the comfort of the agency's office."[25]

During JRO's employment, he was nominated as an authorized user of the SBECS through the company-issued email: jr.o@msm.com.ph, "which was specifically provided for purposes of accessing Respondent's SBECS account."[26] At the time of his resignation, MSMI alleges that JRO "was the only SBECS user officially registered to the system on behalf of Respondent."[27]

When JRO resigned, MSMI submitted a letter to POEA informing them about the resignation, and that its new liaison officer was RDR.[28] This letter was duly acknowledged by POEA. However, according to MSMI, it was only on 05 April 2019 that MSMI received POEA's confirmation that it may now use its company account for its new liaison officer to process seafarer contracts in the SBECS.[29]

Before POEA's confirmation, MSMI "was not able to receive the access credentials for its new POEA Liaison Officer in time to address [JRO's] departure."[30] Thus, MSMI alleges that it was "compelled by the legitimate need to maintain its business operations which requires, among others, the ongoing processing of its seafarers' POEA contracts, [and] continued to access its SBECS account using the credentials registered with the company e-mail address *jr.o@msm.com.ph* until 04 April 2019."[31]

---

[25] *Id.*, *See* Annex "C", citing Philippine Overseas Employment Administration, Memorandum Circular No. 06, series of 2018, New Procedure for Online Registration of Seafarers and Seabased e-Contracts System (SBECS), § 1, ¶ 2 (POEA Memorandum Circular No. 06-2018).
[26] *Id.*, ¶¶ 7-8.
[27] *Id.*, ¶ 7.
[28] *Id.*, ¶ 9.
[29] *Id.*, ¶¶ 9-10.
[30] *Id.*, ¶ 9.
[31] *Id.*

MSMI contends that the POEA-registered account is not personally registered or owned by JRO, especially since only LMAs are allowed to register in the SBECS.[32]

Even assuming that MSMI was processing JRO's personal information, the processing was lawful pursuant to MSMI's legitimate interest based on Section 12(f) of the DPA.[33] MSMI claims that JRO's resignation placed the company in a "dire situation considering that POEA had yet to approve the access credentials of its new POEA Liaison Officer."[34] If MSMI did not use the POEA account, "it would've experienced debilitating work stoppage for a period of four (4) months because of its inability to process seafarer contracts."[35]

MSMI claims that it did not get any complaints from JRO about the company's use of the "access credentials for purely business-related purposes", and so was shocked when it received JRO's Complaint through the Order to Confer Discovery dated 24 April 2019.[36]

Thus, MSMI prays for the Complaint's dismissal based on the following reasons: 1) the Complaint is not a violation of the DPA or does not involve a privacy violation, meriting outright dismissal;[37] and 2) Oller failed to follow the exhaustion of remedies since it did not inform MSMI, in writing, about the alleged privacy violation.[38]

In response, Oller filed a Comment and Opposition to the Motion to Dismiss dated 02 July 2019 with Prayer for the Issuance of Cease and Desist Orders as Provided for Under Chapter II, Section 7(a)(b)(c)(d) AND (i) of R.A. 10173, dated 10 June 2019 *(sic)* (Comment).[39]

In his Comment, JRO countered that "he immediately informed and pleaded [with] the company officers and employees to refrain from accessing his personal information and to subsequently dispose of any

---

[32] *Id.,* ¶ 18.
[33] *Id.,* ¶ 24.
[34] *Id.,* ¶ 25.
[35] *Id.*
[36] *Id.,* ¶ 11.
[37] *Id.,* ¶ 15.
[38] *Id.,* ¶ 29.
[39] Comment and Opposition to the Motion to Dismiss dated July 2, 2019 with Prayer for the Issuance of Cease and Desist Orders as Provided for Under Chapter II, Section 7(a)(b)(c)(d) AND (i) of R.A. 10173, dated 10 June 2019 *(sic)* of JRO.

of his personal information."[40] JRO alleges that he informed ATN "to withdraw, block, remove and destroy" his personal information given that there were two (2) other remaining employees, RDR and ATN, who had access to SBECS.[41] Oller attached a scanned copy of a POEA e-Services Enrollment and Availment Form (REAPS), signed by MSMI's president, showing the nomination of three (3) users with their corresponding email addresses.[42]

MSMI filed a Motion for Extension dated 22 July 2019, seeking an additional period of five (5) days, or until 27 July 2019, within which to file a Reply to JRO's Comment.[43] Subsequently, MSMI filed a Reply (to the Complainant's 10 June 2019 Comment and Opposition), dated 26 July 2019 (Reply).[44]

In its Reply, MSMI claims that JRO only "provides self-serving and unsubstantiated declarations" regarding his allegation that he immediately informed the company about refraining from using his personal information, [45] or that he informed the company in writing.[46] MSMI reiterated its arguments in its Motion to Dismiss, particularly that the alleged personal account was actually owned by the company, [47] and that it had legitimate interests in using the same. [48]

Thereafter, JRO filed a Manifestation with Prayer to Expunge from the Record of the Case the Respondents' Reply (dated 26 July 2019) and Penalized Respondents (*sic*) Under Sec. 33 of R.A. 10173, dated 05 August 2019 (Manifestation).[49] JRO contends that his narration is truthful, and that there should be no reason for an outright dismissal, since the Complaint showed good cause to be decided on the merits.[50] Further, since the Commission did not grant MSMI's Motion for Extension, the Reply was not filed on time.[51]

---

[40] *Id.,* ¶ 3.
[41] *Id.*
[42] *Id.,* Annex "A".
[43] Motion for Extension dated 22 July 2019 of MSMI.
[44] Reply dated 26 July 2019 of MSMI.
[45] *Id.,* ¶¶ 9-10.
[46] *Id.,* ¶¶ 11-15.
[47] *Id.,* ¶ 25.
[48] *Id.,* ¶ 30.
[49] Manifestation with Prayer to Expunge from the Record of the Case the Respondents' Reply (dated July 26, 2019) and Penalized Respondents (sic) Under Sec. 33 of R.A. 10173, dated 05 August 2019 of JRO.
[50] *Id.,* ¶ 2.
[51] *Id.,* ¶ 1.

MSMI filed a Motion to Expunge with *Ex Abudanti Ad Cautelam* (to Complainant's 05 August 2019 Manifestation) dated 28 August 2019.[52] Aside from reiterating its previous arguments, in the said Motion, MSMI prayed that the Manifestation be expunged from the records since the final pleading was its Reply, based on the Commission's Order dated 18 June 2019.[53] Further, MSI averred that Oller has not proven that there were three (3) authorized users to use the SBECS since the REAPS that Oller attached to his Comment was merely a request, not the actual approval from POEA.[54]

MSMI thereafter filed an *Ex-Parte* Motion to Resolve (Respondent's Motion to Dismiss dated 02 July 2019), dated 26 November 2019, where the Respondent prayed that the Complaint be dismissed.[55] JRO also filed a Motion for Early Resolution and to Declare Respondents in Default, dated 01 December 2019, also praying for the resolution of the case.[56]

In a Resolution dated 12 January 2021, the CID resolved to deny JRO's request to expunge MSMI's Reply; it also denied MSMI's motion to expunge JRO's Manifestation, both based on due process considerations.[57]

Issues

I. Whether the Complaint should be dismissed for failing to follow the rule on exhaustion of administrative remedies.

II. Whether MSMI committed a violation of the DPA.

Discussion

---

[52] Motion to Expunge with *Ex Abudanti Ad Cautelam* (to Complainant's 05 August 2019 Manifestation) dated 28 August 2019 of MSMI.
[53] *Id.,* ¶ 10.
[54] *Id.,* ¶ 31.
[55] *Ex-Parte* Motion to Resolve (Respondent's Motion to Dismiss dated 02 July 2019), dated 26 November 2019 of MSMI., ¶ 10.
[56] Motion for Early Resolution and to Declare Respondents in Default, dated 01 December 2019 of JRO, Prayer.
[57] Resolution dated 12 January 2021, at pages 2-3.

The Commission dismisses the Complaint for lack of merit.

I. The Commission exercises its authority to resolve the case on the merits.

MSMI contends that the case should be dismissed since JRO did not prove that he complied with Section 4(a) of NPC Circular No. 16-04, also known as the 2016 NPC Rules of Procedure.[58]

In response, JRO claims that after resigning, he immediately informed the company to refrain from accessing his personal information.[59]

NPC Circular No. 16-04 was the applicable procedural rules at the time of the filing of the complaint. Section 4 of the aforementioned Circular states:

> SECTION 4. Exhaustion of remedies. – No complaint shall be entertained unless:
>
> **a.   the complainant has informed, in writing, the personal information controller or concerned entity of the privacy violation or personal data breach to allow for appropriate action on the same;**
>
> b.   the personal information controller or concerned entity did not take timely or appropriate action on the claimed privacy violation or personal data breach, or there is no response from the personal information controller within fifteen (15) days from receipt of information from the complaint ;
>
> c.   and the complaint is filed within six (6) months from the occurrence of the claimed privacy violation or personal data breach, or thirty (30) days from the last communiqué with the personal information controller or concerned entity, whichever is earlier.
>
> The failure to comply with the requirements of this Section shall cause the matter to be evaluated as a request to the National Privacy Commission for an advisory opinion, and for the

---

[58] Motion to Dismiss dated 02 July 2019 of MSMI, ¶ 29.

[59] Comment and Opposition to the Motion to Dismiss dated July 2, 2019 with Prayer for the Issuance of Cease and Desist Orders as Provided for Under Chapter II, Section 7(a)(b)(c)(d) AND (i) of R.A. 10173, dated 10 June 2019 *(sic)* of John Raeman R. Oller, ¶ 3.

National Privacy Commission to take such further action, as necessary. **The National Privacy Commission may waive any or all of the requirements of this Section, at its discretion, upon good cause shown, or if the complaint involves a serious violation or breach of the Data Privacy Act, taking into account the risk of harm to the affected data subject.**[60] (Emphases supplied)

Based on the record, JRO has not concretely provided evidence that it has complied with Section 4(a) of NPC Circular No. 16-04, since there is no proof that he informed MSMI, in writing, about the alleged privacy violation. Other than his allegations stated in his various pleadings before the Commission, [61] JRO did not attach any letter or other written correspondence to MSMI relating to the alleged privacy violation. Thus, he did not provide substantial evidence that will lead the Commission to conclude that he complied with Section 4(a) of NPC Circular No. 16-04.

Nevertheless, the Commission exercises its authority to waive the requirement of exhaustion of administrative remedies, based on the last paragraph of Section 4 of the 2016 Rules of Procedure.

JRO's allegations, if substantially proven, may lead the Commission to conclude that there was a serious violation of the DPA. The allegations also show that there may be serious risk of harm to JRO, given that the emails he provided allegedly show acts which he did not do, but may be liable for.

Thus, the Commission finds it appropriate to exercise its authority to resolve the case on the merits.

II. MSMI did not commit a violation of the DPA.

JRO claims that there was a violation of the DPA since MSMI continually utilized his "POEA account" to process its seafarer clients' transactions.[62]

---

[60] National Privacy Commission, Rules of Procedure, NPC Circular No. 16-04, § 4 (15 December 2016).
[61] *See* Comment and Opposition to the Motion to Dismiss dated July 2, 2019 with Prayer for the Issuance of Cease and Desist Orders as Provided for Under Chapter II, Section 7(a)(b)(c)(d) AND (i) of R.A. 10173, dated 10 June 2019 *(sic)* of JRO, ¶ 3.
[62] Complaints-Assisted Form dated 27 March 2019 of JRO, at page 3.

There are three pieces of information that JRO claims to be part of his personal information: 1) his email account, 2) his name, and 3) the POEA Code.[63]

At the outset, the Commission finds that JRO did not actually own the "POEA account" that enabled MSMI to use the SBECS. The company-issued email and POEA Code, which are both needed to register and use the SBECS, are part of MSMI's assets.

There is substantial evidence on record to show that MSMI has ownership over the company-issued email and POEA Code. Particularly, the contract processing fees to use the POEA system was paid by MSMI.[64]

The email, jr.o@msm.com.ph, is also reasonably seen to be a company-issued email, with the email identifier itself linked to the company. The signed REAPS provided by JRO himself shows that the request to enroll into the SBECS was made by MSMI.[65]

Further, under POEA Memorandum Circular No. 06, series of 2018, (POEA Circular) which has for its subject the "New Procedure for Online Registration of Seafarers and Seabased e-Contracts System (SBECS)", it is the LMA who requests or nominates the users to the POEA.[66]

Thus, given that these are company-owned assets, the corresponding credentials for the use of the SBECS are not owned by JRO. The "POEA account" is for the company's transactions, and not for his personal use. In other words, the company was authorized to use the POEA credentials since this was company-owned.

The POEA Code, in this instance, cannot be considered personal information given that the said code is owned by MSMI. Meanwhile,

---

[63] *Id.*

[64] Motion to Dismiss dated 02 July 2019 of MSMI, Annex "I" and "I-1".

[65] *See* Comment and Opposition to the Motion to Dismiss dated July 2, 2019 with Prayer for the Issuance of Cease and Desist Orders as Provided for Under Chapter II, Section 7(a)(b)(c)(d) AND (i) of R.A. 10173, dated 10 June 2019 *(sic)* of JRO, Annex "A".

[66] POEA Memorandum Circular No. 06-2018, § 2, ¶ 1.

NPC_OPC_ADJU_DCSN-V1.0,R0.0, 05 May 2021

though the email is company-issued, it may fall under the definition of personal information since JRO's name is stated therein.[67]

Nevertheless, the fact that MSMI used JRO's company-issued email even after his resignation does not immediately equate to a violation of the DPA.

Section 12 of the DPA provides for the criteria for lawful processing of personal information. Aside from consent, the DPA has other bases for lawful processing, including processing which is anchored on legitimate interests, to quote:

> SEC. 12. *Criteria for Lawful Processing of Personal Information.* – The processing of personal information shall be permitted only if not otherwise prohibited by law, and when at least one of the following conditions exists:
>
> xxx
>
> (f) The processing is necessary for the purposes of the legitimate interests pursued by the personal information controller or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.[68]

Thus, a Personal Information Controller (PIC) may still lawfully process personal information, even without a data subject's consent, if it is based on other criteria found in the DPA, such as Section 12(f).

The Commission finds that MSMI had a legitimate interest in continuing to use its POEA account even after JRO's resignation, given the mandate of the POEA Circular, and MSMI's required business processes.

To reiterate, the POEA Circular which provides for SBECS, includes agencies like MSMI.[69] Through the SBECS, an LMA is able to use "a

---

[67] *See* Data Privacy Act of 2012, § 3(g): Personal information refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.

[68] *Id.* § 12(f).

[69] POEA Memorandum Circular No. 06-2018, § 1, ¶ 1.

secured web-based facility developed for active LMAs to submit online 24/7 their request for processing (RFP), pay online the POEA processing and OWWA membership fees, submit online the seafarer's contract and print the electronic Overseas Employment Certificate (OEC) of the seafarers in the comfort of the agency's office."[70] Otherwise, agencies that fail to register to the SBECS "will be reverted to regular counter processing."[71]

In order to use the SBECS, the agency had to provide a list of names and email addresses to the POEA, which shall serve as the agency's request or nomination for enrollment or availment of the POEA's system.[72] The SBECs also could only be accessed by "authorized users",[73] which means that the account had to be specific to a person. Thus, MSMI needed to provide JRO's name and email address to comply with the said Circular. After complying, MSMI had the authority to use the POEA account given that it owned the POEA Code and issued Oller's company email.

The account or credentials which is authorized to use the SBECS, including the name registered in its system, cannot be immediately changed by the company. SBECS is managed by the POEA. As discussed, the LMA has to nominate its authorized users for the POEA's approval,[74] and POEA is the one who authorizes the nominated users of the LMA, to quote from the Circular:

xxx

> If the SBECS requirements mentioned above are met by the agency, the POEA ICT Branch shall enroll the user credentials in the system. Authorized users shall receive their username and system link through the email address indicated in the agency REAPS.[75]

Through a letter dated 18 December 2018, MSMI undertook to inform the POEA about JRO's resignation and that its new liaison officer was

---

[70] *Id.*
[71] *Id.*, § 5.
[72] *Id.*, § 2, ¶ 1.
[73] *Id., see also* § 3, ¶ 1.2.
[74] *Id.*, § 2, ¶ 1.
[75] *Id.*, § 3, ¶ 1.2.

RDR.[76] POEA acknowledged the same through a letter dated 03 January 2019.[77]

The Commission emphasizes that access to the SBECS had to be allowed by POEA.[78] However, the evidence shows that MSMI only gained access from POEA for RDR on April 2019.[79] Thus, even though JRO resigned as of 31 December 2018, MSMI could not immediately use the POEA account via RDR's credentials since this was dependent on POEA enrolling the user's credential in its system.

Relatedly, JRO alleges that the MSMI should not have used his email after his resignation, given that there were two other people that had access to the SBECS.[80] As proof of this claim, JRO submitted a signed Request for Enrollment and Availment of POEA e-Services (REAPS).[81]

However, as the form itself states, the REAPS is a request form, and does not indicate the action done by POEA regarding MSMI's request. Thus, at best, the REAPS only shows that MSMI requested three users to be authorized to use the SBECS. It does not prove, however, that POEA actually approved all three (3) nominated names to use the SBECS.

JRO has not proven, with substantial evidence, that MSMI had two (2) other authorized users that could have accessed the SBECS. In comparison, MSMI was able to adequately prove that it only had access for Dela Rosa on April 2019.[82]

As the REAPS also shows, RDR was one of the persons cited in the request form to be authorized to use the SBECS.[83] The Commission notes that MSMI had to request the POEA to register RDR as the new POEA liaison officer after JRO's resignation.[84] This new position was

---

[76] Motion to Dismiss dated 02 July 2019 of MSMI, Annex "F".
[77] *Id.*, Annex "G".
[78] *See* POEA Memorandum Circular No. 06-2018, § 3, ¶ 1.2.
[79] Motion to Dismiss dated 02 July 2019 of MSMI, Annex "H".
[80] Comment and Opposition to the Motion to Dismiss dated July 2, 2019 with Prayer for the Issuance of Cease and Desist Orders as Provided for Under Chapter II, Section 7(a)(b)(c)(d) AND (i) of R.A. 10173, dated 10 June 2019 *(sic)* of JRO, ¶ 3.
[81] *Id.*, Annex "A".
[82] Motion to Dismiss dated 02 July 2019 of MSMI., Annex "H".
[83] Comment and Opposition to the Motion to Dismiss dated July 2, 2019 with Prayer for the Issuance of Cease and Desist Orders as Provided for Under Chapter II, Section 7(a)(b)(c)(d) AND (i) of R.A. 10173, dated 10 June 2019 (sic) of JRO, Annex "A".
[84] Motion to Dismiss dated 02 July 2019 of MSMI, Annex "F".

duly acknowledged by the POEA in its letter dated 03 January 2019.[85] These circumstances discredit JRO's claim that the other requested names in the REAPS were ultimately authorized by the POEA since MSMI had to request access for Dela Rosa as its new liaison officer.

Given the circumstances, MSMI's processing was valid considering that it used the company-linked POEA Code through a company-issued email to use the POEA account owned by MSMI. It also adequately established that its new liaison officer, Dela Rosa, only had access to SBECS months after JRO's resignation, even though the company already informed POEA about these facts.

Under Section 12(f) of the DPA, the PIC's legitimate interest may be "overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution."[86] In this case, JRO has not sufficiently alleged, or proven, that he has fundamental rights enshrined in the Constitution that would override MSMI's legitimate interests.

In sum, the Commission finds that MSMI's processing is considered as "necessary for the purposes of the legitimate interests" since the use of the SBECS is provided by POEA, validly authorized given the circumstances, and is integral to its business processes as an LMA.

WHEREFORE, premises considered, the Complaint is hereby **DISMISSED** for lack of merit.

SO ORDERED.

City of Pasay, Philippines.
31 March 2022.

Sgd.

_____

[85] *Id.,* Annex "G".
[86] Data Privacy Act of 2012, § 12(f).

JOHN HENRY D. NAGA
Privacy Commissioner

WE CONCUR:

Sgd.
DUG CHRISTOPER B. MAH
Deputy Privacy Commissioner

(Inhibited)
LEANDRO ANGELO Y. AGUIRRE
Deputy Privacy Commissioner

Copy furnished:

JRO
Complainant

MSMI
Respondent

AML
Counsel for Respondent

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

NPC_OPC_ADJU_DCSN-V1.0,R0.0, 05 May 2021

5th Floor, Philippine International Convention Center, Vicente Sotto Avenue, Pasay City, Metro Manila 1307
URL: https//www.privacy.gov.ph Email Add: info@privacy.gov.ph Tel No. 8234-2228