IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2025] SGHC 173

District Court Appeal No 28 of 2024

Between

Piper, Martin

… *Appellant*

And

Singapore Kindness Movement

… *Respondent*

JUDGMENT

[Statutory Interpretation — Personal Data Protection Act 2012 — Consent and deemed consent]
[Statutory Interpretation — Personal Data Protection Act 2012 — Statutory tort under s 48O]

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Piper, Martin
v
Singapore Kindness Movement

[2025] SGHC 173

General Division of the High Court — District Court Appeal No 28 of 2024
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15 May 2025

29 August 2025 Judgment reserved.

Hoo Sheau Peng J:

Introduction

1 Sometime in 2022, the appellant, Mr Martin Piper ("Mr Piper"), lodged a complaint with the respondent, Singapore Kindness Movement ("SKM"), about one Ms Carol Loi Pui Wan ("Ms Loi"). In investigating the complaint, SKM disclosed Mr Piper's personal data, *ie,* his full name and e-mail address, to Ms Loi.

2 Alleging that SKM's disclosure was wrongful, and that the disclosure directly caused him loss or damage, Mr Piper brought a statutory tort claim against SKM. The statutory tort is created by s 48O of the Personal Data Protection Act 2012 (2020 Rev Ed) (the "PDPA"), and it reads:

> **Right of private action**
>
> 48O.—(1) A person who suffers loss or damage directly as a result of a contravention —
>
> (a) by an organisation of any provision of Part 4, 5, 6, 6A or 6B; …
>
> has a right of action for relief in civil proceedings in a court.
>
> …
>
> (3) The court may grant to the claimant in an action under subsection (1) all or any of the following:
>
> (a) relief by way of injunction or declaration;
>
> (b) damages;
>
> (c) any other relief as the court thinks fit.

3 The learned District Judge (the "DJ") dismissed the claim, providing his reasons in *Martin Piper v Singapore Kindness Movement* [2024] SGDC 292 (the "Judgment"). This is Mr Piper's appeal against the DJ's decision.

4 Having considered the matter, I find that, by disclosing Mr Piper's personal data to Ms Loi, SKM acted in contravention of its obligations contained in Part 4, specifically ss 13 and 18(*a*), of the PDPA. With due respect to the DJ, I disagree with his conclusion that SKM did not breach its obligations under the PDPA. That said, I agree with the DJ that Mr Piper failed to show that he directly suffered actionable loss or damage as a result of SKM's contravention of the PDPA. Therefore, I dismiss the appeal. I elaborate on my reasons below.

Facts

Background facts

5 I begin by summarising the facts, which the parties are broadly agreed on.

6 On 27 August 2022, Mr Piper sent SKM an e-mail (the "27 August E-mail"), using his full name and e-mail address, in which he lodged a complaint against Ms Loi. Ms Loi was the co-founder of "SGFamilies Ground-up Movement" ("SGFamilies GUM"), an affiliate of SKM. Specifically, Mr Piper alleged that Ms Loi was promoting discriminatory and false material against the transgender community via a Telegram chat group/channel named "SG Families Watchgroup" (the "Telegram Group").[1]

7 On 1 September 2022, SKM informed Mr Piper via e-mail (the "1 September E-mail") that SKM had reached out to Ms Loi. It said Ms Loi explained to SKM, *inter alia*, that the Telegram Group was not associated with SGFamilies GUM, that she was not the founder or owner of the Telegram Group, and that she was involved in the Telegram Group in her personal capacity only. SKM added that Mr Piper could reach out to Ms Loi directly if he required further clarification.[2]

8 On 4 September 2022, Mr Piper responded to the 1 September E-mail via two separate e-mails (the "4 September E-mails"), through which he sought to provide further evidence to show the Telegram Group's connection with SGFamilies GUM.[3]

9 On 7 September 2022, SKM sent Ms Loi an e-mail (the "7 September E-mail") and copied Mr Piper using his personal email address (the "7 September Disclosure"). In this e-mail, SKM summarised its correspondence with Mr Piper from 27 August to 4 September 2022, and told Ms Loi that "[i]t

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1 Appellant's Core Bundle of Documents (Volume B) ("ACBD-B") at p 5.

2 ACBD-B at p 7.

3 ABCD-B at pp 8 and 9.

is therefore best for you to respond to him directly as we are not in the position to speak for you".[4]

10 During the trial, it emerged that, prior to the 7 September 2022 E-mail, between 30 August and 1 September 2022, SKM disclosed Mr Piper's identity to Ms Loi during the course of its investigations on three occasions (the "Prior Disclosures"):

(a) On 30 August 2022, SKM disclosed Mr Piper's identity in a phone call with Ms Loi, after Ms Loi asked SKM to do so ("30 August Disclosure").[5]

(b) On 31 August 2022, SKM disclosed Mr Piper's identity to Ms Loi during a meeting to discuss the 27 August E-mail ("31 August Disclosure").[6]

(c) On 1 September 2022, SKM blind copied Ms Loi in the 1 September E-mail, disclosing Mr Piper's name and e-mail address to Ms Loi ("1 September Disclosure").[7]

11 In any event, on 5 September 2022, Ms Loi filed an action against Mr Piper under the Protection from Harassment Act 2014 (2020 Rev Ed) ("POHA"), alleging that he had caused her harassment by way of, amongst other

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4 ABCD-B at p 13.

5 Notes of Evidence for 6 August 2024 ("6 Aug 24 NE") p 72 lines 27 to p 73 line 29; Affidavit of Evidence-in-Chief of William Wan dated 3 May 2024 ("Wan's AEIC") at para 9.

6 6 Aug 24 NE at p 79 lines 3−16; Wan's AEIC at para 9.

7 6 Aug 24 NE at p 131 line 28 to p 132 line 10; Affidavit of Evidence-in-Chief of Carol Loi Pui Wan dated 3 May 2024 ("Loi's AEIC") at para 10.

things, his complaint to SKM about her association with the Telegram Group.[8] Mr Piper was served with the proceedings on 14 September 2022. Further, Ms Loi documented her process of preparing for the POHA claim by publishing a series of screenshots and photographs, along with written posts, in a public album on Facebook (the "Album").[9] On 19 April, 25 April and 4 May 2023, Mr Piper received threatening messages directed at him. These messages referred to Ms Loi and her POHA claim.[10] On 24 May 2023, Ms Loi withdrew her application.[11]

The parties' cases in the proceedings below

12 In the proceedings below, Mr Piper argued that, by revealing his identity and e-mail address to Ms Loi in the 7 September E-mail, SKM breached ss 13, 14 (read with s 20), 15, 15A, and 18 (read with s 20) of the PDPA.[12] He also argued in his closing submissions that the Prior Disclosures constituted similar breaches of the PDPA.[13] In making these arguments, Mr Piper sought to analogise the circumstances surrounding his complaint to SKM to a "whistleblowing situation" which would warrant greater care and caution in handling his personal data.[14] Further, Mr Piper argued that, as a result of SKM's breaches, he suffered direct loss and/or damage, which included financial loss and emotional distress arising from responding to Ms Loi's POHA claim, the

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8 ABCD-B at pp 10−12.

9 Affidavit of Evidence-in-Chief of Martin Piper dated 3 May 2024 ("Piper's AEIC") at paras 54−57.

10 Piper's AEIC at paras 60, 64 and 65.

11 Loi's AEIC at para 18.

12 Record of Appeal dated 7 February 2025 (ROA) at pp 376−378.

13 ROA at pp 1624−1628 paras 17(a)−17(c).

14 ROA at p 1660−1661 para 96.

death threats, and SKM's "dismissive, cavalier and evasive response … in respect of its PDPA breaches".[15]

13 On the other hand, SKM argued that it did not contravene the PDPA. While it did not obtain express consent from Mr Piper, it relied on ss 13(*a*) and 15 of the PDPA to argue that Mr Piper should be deemed to have given his consent for the collection, use or disclosure of his personal data for the purposes of investigating his complaint.[16] In good faith, SKM reasonably disclosed Mr Piper's personal data to Ms Loi in discharging its investigative duties, to authenticate the complaint and promote conciliation between the two of them.[17] In any event, SKM could avail itself of two exceptions under s 17 of the PDPA. These are provided under Part 1, para 1(1)(*b*) of the First Schedule of the PDPA (the "Vital Interests Exception"), and Part 3, para 3 of the First Schedule of the PDPA (the "Investigation Exception").[18] SKM also argued that Mr Piper's complaint to it was not a whistleblowing case.[19] In relation to the issue of loss or damage, SKM argued that Mr Piper did not suffer any direct actionable loss or damage due to the alleged PDPA breaches.[20]

The decision below

14 As stated at [3] above, the DJ dismissed Mr Piper's claim (see Judgment at [118]–[119]).

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15 ROA at p 379 paras 20−25 and p 1672 para 125.

16 ROA at p 1702 para 27.

17 ROA at p 1690 para 3.

18 ROA at p 1711 para 41.

19 ROA at p 1714 para 47.

20 ROA at p 1691 para 4.

15 Preliminarily, the DJ allowed Mr Piper to rely on the Prior Disclosures even though they were not pleaded. As these disclosures were only revealed during the trial through the evidence led by SKM, SKM would not have been taken by surprise or have suffered any prejudice as a result of Mr Piper's reliance on them (Judgment at [19]). After observing that the parties were agreed that Mr Piper did not expressly consent to SKM disclosing his personal data (Judgment at [24]), the DJ then held that there was deemed consent under s 15 of the PDPA (Judgment at [38]). He explained that since Mr Piper deliberately disclosed his personal data to SKM to file a complaint against Ms Loi and wanted SKM to investigate the matter, he was deemed to have consented to the disclosure of his identity by SKM for the purpose of acting on the complaint (Judgment at [33] and [36]−[39]).

16 In coming to his decision, the DJ rejected Mr Piper's argument that SKM could have investigated the complaint without disclosing his personal data, explaining that it was for SKM to decide how to most effectively conduct its investigations (Judgment at [39] and [47]). The DJ also held that since Mr Piper did not request for anonymisation, it was reasonable for SKM to have disclosed his identity to Ms Loi during investigations. The onus was on Mr Piper to have expressly requested for anonymisation if he did not want his identity to be revealed (Judgment at [40]−[42]).

17 For similar reasons, the DJ held that SKM did not breach s 18(*a*) of the PDPA (Judgment at [53]). As for ss 14(1)(*a*) and 18(*b*) of the PDPA, they were no longer applicable by virtue of s 20(3) of the PDPA, given the finding of deemed consent (Judgment at [51]).

18 For completeness, the DJ also observed that the Vital Interests Exception and Investigation Exception were inapplicable, respectively, because the

background surrounding Mr Piper's complaint lacked the necessary urgency (Judgment at [61]), and because Mr Piper's complaint lacked the requisite clear actionability in law (Judgment at [64]). He also observed that Mr Piper's complaint did not constitute whistleblowing, as, *inter alia*, whistleblowing only "concern[ed] matters relating to management or staff within the organisation", and neither Mr Piper nor Ms Loi were SKM's employees (Judgment at [68]−[69] and [71]).

19 As for loss or damage, the DJ observed, citing *Reed, Michael v Bellingham, Alex (Attorney-General, intervener)* [2022] 2 SLR 1156 ("*Reed*"), that, for claims made under s 48O of the PDPA, there had to be a direct causal link between the contravention and the loss or damage suffered (Judgment at [81]). This requirement was to be stringently applied (Judgment at [89]). In Mr Piper's case, his emotional distress arose as a direct result of Ms Loi's POHA claim and the Album, rather than from SKM's alleged breaches *per se*. The requisite direct causal link was thus not established, and Mr Piper could not recover these damages under s 48O of the PDPA (Judgment at [91], [98] and [101]).

20 Finally, the DJ held that Mr Piper had not, in any event, sufficiently proven that he suffered emotional distress within the meaning of s 48O of the PDPA. In this regard, Mr Piper's witnesses, Ms Carissa Cheow Hui Ying ("Ms Cheow") and Ms Loh Ai Ming Vivian ("Ms Loh"), did not assist his case as their evidence was based purely on their observations of Mr Piper through text messages and/or calls (Judgment at [107]−[109]). Mr Piper's claim of having been diagnosed with post-traumatic stress disorder ("PTSD") was also not sufficiently proven (Judgment at [110]). Applying the multi-factorial approach canvassed in *Reed*, the DJ concluded that Mr Piper did not suffer any emotional distress as a result of SKM's breaches of the PDPA (Judgment at [111]).

The parties' cases on appeal

Mr Piper's arguments

21 On the question of whether SKM contravened the PDPA, Mr Piper makes four broad arguments. First, Mr Piper argues that the DJ erred in finding that he was deemed to have consented to the disclosure of his personal data by SKM to Ms Loi. Specifically, he argues that he provided his identity to SKM to lend credibility to his complaint and as required by SKM's privacy policy, which states that it is generally unable to deal with anonymous complaints. It is unreasonable for Mr Piper to expect that his identity would be disclosed during investigations.[21]

22 Second, Mr Piper argues that the DJ erred by applying SKM's subjective standard of reasonableness, instead of the objective standard of reasonableness, in coming to his findings.[22] Since SKM could have acted on Mr Piper's complaint without disclosing his personal data to Ms Loi, it was objectively unreasonable for it to have disclosed Mr Piper's personal data.[23] Further, it was objectively unreasonable for SKM to have sought to put Mr Piper and Ms Loi in touch to promote conciliation since he never asked for it.[24]

23 Third, Mr Piper argues that the DJ erred in failing to analogise his original complaint to SKM to a whistleblowing situation. Specifically, Mr Piper argues that, contrary to the DJ's decision, such an analogy is merely descriptive

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21 Appellant's Written Submissions dated 7 February 2025 ("AWS") at paras 25−28; Appellant's Reply Submissions dated 21 March 2025 ("ARS") at para 6.

22 AWS at para 31.

23 AWS at para 34.

24 AWS at paras 39−40.

and need not be pleaded.[25] Further, whistleblowers are not limited to employees.[26]

24 Fourth, Mr Piper argues that the DJ erred in placing the onus on him to expressly instruct SKM to keep his identity confidential. Such a proposition raises grave public policy concerns as it "will reduce the scope of governance afforded by the PDPA by allowing organisations … to shirk its obligations under the PDPA as the responsibility would lie on the individual to 'expressly request' how they would want their personal data to be dealt with".[27]

25 In relation to the issue of damage or loss, Mr Piper makes two broad arguments. First, Mr Piper argues that the DJ erred in applying the direct causal requirement stringently and taking an overly narrow reading of the word "directly". In fact, SKM's disclosure of Mr Piper's personal data cannot be neatly disconnected with Ms Loi's filing of her POHA claim against Mr Piper as it was the direct cause of the same.[28]

26 Second, Mr Piper argues that, applying the approach as established in *Reed*, the DJ failed to consider that SKM's disclosure of his personal data to Ms Loi would (and did) in and of itself cause him emotional distress within the meaning of s 48O of the PDPA.[29] Specifically, Mr Piper points to the following three factors:[30]

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25 AWS at para 46.

26 AWS at para 47−57.

27 AWS at paras 59−64.

28 AWS at paras 66−72.

29 AWS at para 73; ARS at para 40.

30 AWS at para 73.

(a) Nature of the personal data involved in the breach: Considering the seriousness of Mr Piper's complaint, his identity constitutes sensitive personal data.

(b) Nature of SKM's conduct: SKM disclosed Mr Piper's personal data on four occasions in close proximity, and was evasive or dismissive of his concern about the disclosure of his personal data.

(c) Actual impact of breach: Due to SKM's breach, Mr Piper felt nervous and uneasy as he was worried about potential retaliation by Ms Loi. Indeed, Ms Loi filed a retaliatory POHA claim, and documented the process publicly. This further led to Mr Piper receiving death threats.

27 During the hearing, counsel for Mr Piper confirmed that, other than emotional distress, he was no longer seeking to rely on other heads of loss such as "financial losses".

SKM's arguments

28 In relation to whether SKM acted in contravention of the PDPA, SKM first argues that the DJ correctly applied an objective (and not subjective) analysis. In fact, the DJ re-emphasised the objective standard by referring to what a reasonable person would consider appropriate in the circumstances.[31] Further, SKM argues that the disclosure of Mr Piper's personal data was necessary and reasonable as part of its investigations, specifically, to authenticate his complaint so that Ms Loi would better understand the same and respond appropriately.[32] It was also reasonable for SKM to have attempted to

[31] RWS at paras 12−14.

[32] RWS at paras 17−18 and 23−25.

put Mr Piper in touch with Ms Loi directly to facilitate conciliation, since SKM could neither conclude its investigations on Mr Piper's grave complaint due to his persistence in pursuing it (see [8] above), nor could it speak on Ms Loi's behalf.[33]

29 In the alternative, SKM argues that it can avail itself of the Investigation Exception. It argues that the DJ erred in holding that this exception could only apply when the relevant investigation related to an identified and specified wrong that was actionable in law (see [18] above). In fact, the Investigation Exception is broader, and can apply so long as the relevant investigation relates to a circumstance or conduct that *may* be actionable by law.[34] In the present case, given the gravity of Mr Piper's allegations against Ms Loi, the outcome of SKM's investigations *may* result in a criminal or civil remedy against Ms Loi (either by Mr Piper and/or SKM), or a remedy by Ms Loi against Mr Piper (*eg*, under POHA).[35]

30 Next, SKM argues that Mr Piper did not plead his case on whistleblowing, which is in any event not a legal cause of action, and goes "way beyond the statutory purpose of the PDPA and is bereft of supporting legal authority". Ultimately, the key question remains whether Mr Piper consented to the disclosure of his personal data.[36] SKM also argues that a whistleblowing situation typically involves management or staff within an organisation (which

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33 RWS at paras 19−22.

34 RWS at paras 27−29.

35 RWS at para 30.

36 RWS at para 32.

Mr Piper and Ms Loi are not *vis-à-vis* SKM),[37] and, in any event, that Mr Piper has not identified any whistleblowing policy to substantiate his argument.[38]

31 Finally, SKM submits that the DJ was correct to hold that, in situations involving deemed consent, the onus would be on the affected individual to take the additional step to expressly instruct the organisation to keep his identity confidential if he so wishes.[39] This approach does not reduce the scope of governance afforded by the PDPA, given the presence of safeguards like the requirements of "voluntariness" and "reasonableness" in s 15 of the PDPA.[40]

32 Turning to damage or loss, SKM makes two broad arguments. In response to Mr Piper's first broad argument, SKM essentially argues that the DJ correctly applied the direct causal requirement stringently, and that Ms Loi's legal action and Facebook posts constituted a *novus actus interveniens* which broke the chain of causation. In any event, Mr Piper has not proven that he had suffered PTSD that was linked to SKM's conduct.[41]

33 In response to Mr Piper's second broad argument, after preliminarily highlighting that Mr Piper's argument (that SKM's disclosures of his personal data *per se* caused him emotional harm) should be dismissed as it is a new case advanced on appeal in breach of O 19 r 18(1)(*b*) of the Rules of Court 2020 (the "ROC"), SKM argues that Mr Piper's argument is logically and legally flawed,

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37 RWS at para 33.

38 RWS at paras 34−36.

39 RWS at para 38.

40 RWS at para 40.

41 RWS at paras 44−50.

as well as evidentially unsubstantiated.[42] Specifically, SKM highlights the following in relation to the three factors relied upon by Mr Piper:

(a) Nature of the personal data involved in the breach: The personal data disclosed, *ie*, Mr Piper's name and e-mail address, is relatively non-sensitive compared to the financial data disclosed in *Reed*.[43]

(b) Nature of SKM's conduct: SKM's breach was one-off, and its disclosure of Mr Piper's data was only to a single individual. SKM was not evasive or dismissive. Instead, there was a genuine lapse in response by SKM to Mr Piper, especially as SKM prioritised internal investigations and reviewing internal procedures following the incident.[44]

(c) Actual impact of breach: Mr Piper has not adduced sufficient evidence to prove any emotional distress as a direct result of SKM's disclosure of his personal data, which would entitle him to damages under s 48O of the PDPA.[45]

Issues on appeal

34 For convenience, I group the parties' arguments into two main issues. The first relates to whether SKM contravened the PDPA, and I shall refer to this as the "Breach Issue". Within the Breach Issue, there are five sub-issues:[46]

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42 RWS at paras 52 and 56−57.

43 RWS at para 53.

44 RWS at para 54.

45 RWS at para 55.

46 AWS at para 18.

(a) whether the DJ erred in finding that Mr Piper should be deemed to have consented to the disclosure of his personal data by SKM to Ms Loi;

(b) whether the DJ erred as a matter of law in applying SKM's subjective standard of reasonableness instead of the objective standard of the reasonable person in considering if SKM breached the PDPA;

(c) whether Mr Piper's original complaint to SKM constituted a whistleblowing situation;

(d) whether the DJ erred in placing the onus on Mr Piper to expressly instruct SKM to anonymise his complaint; and

(e) whether the DJ erred in finding that SKM cannot rely on the Investigation Exception.

35 The second issue deals with whether there is actionable loss or damage, and I shall refer to this as the "Loss Issue". There are two sub-issues here:

(a) whether the DJ erred in applying the direct causal link requirement stringently; and

(b) whether the DJ failed to consider that SKM's disclosure of Mr Piper's personal data to Ms Loi would *per se* cause him emotional distress actionable under s 48O of the PDPA.

36 With that, I turn to the Breach Issue.

The Breach Issue

The applicable law

Obligations imposed on organisations by s 13 of the PDPA

37 I begin with the applicable law. Under s 13 of the PDPA, an organisation must not collect, use or disclose personal data about an individual unless consent is given (or deemed given), or unless permitted under the PDPA or by any other written law. Specifically, s 13 reads:

> **Consent required**
>
> 13. An organisation must not, on or after 2 July 2014, collect, use or disclose personal data about an individual unless —
>
> (*a*) the individual gives, or is deemed to have given, his or her consent under this Act to the collection, use or disclosure, as the case may be; or
>
> (*b*) the collection, use or disclosure (as the case may be) without the individual's consent is required or authorised under this Act or any other written law.

38 In relation to s 13(*b*) of the PDPA, s 17 of the PDPA (read with the First Schedule and the Second Schedule) provides for certain situations when an organisation may collect, use or disclose an individual's personal data without consent. These include the Vital Interests Exception and the Investigation Exception.

39 As for s 13(*a*) of the PDPA, the requirement of consent can be satisfied in three ways: (a) when the individual has given his express consent (s 14 of the PDPA); (b) when the individual is deemed to have given his consent (s 15 of the PDPA); or (c) when the individual is deemed to have given his consent by notification (s 15A of the PDPA). Since the parties are agreed that express consent and deemed consent by notification were absent at the material time (Judgment at [24] and [28]), I will only proceed to consider deemed consent

under s 15 of the PDPA, specifically deemed consent by conduct as encapsulated in s 15(1) of the PDPA.

Deemed consent

(1) Requirements to establish deemed consent

40 Section 15(1) of the PDPA reads as follows:

> **Deemed consent**
>
> 15.—(1) An individual is deemed to consent to the collection, use or disclosure of personal data about the individual by an organisation for a purpose if —
>
> > (*a*) the individual, without actually giving consent mentioned in section 14, voluntarily provides the personal data to the organisation for that purpose; and
> >
> > (*b*) it is reasonable that the individual would voluntarily provide the data.

41 Therefore, to establish deemed consent under s 15 of the PDPA, there are two inter-related requirements. First, it must be shown that an individual voluntarily provided his personal data for a purpose. Second, it must be shown that it is reasonable that he would voluntarily provide such data.

42 In my view, the first requirement involves a factual inquiry which focuses on the purpose for the voluntary provision of personal data by a person. In this inquiry, the court should ensure that the purpose is objectively obvious. In arriving at this proposition, I draw from the Personal Data Protection Commission ("PDPC"), *Advisory Guidelines on Key Concepts in Personal Data Protection Act* (revised 16 May 2022) (the "PDPC Advisory") at para 12.20, which states as follows:

> Deemed consent by conduct applies to situations where the individual voluntarily provides his personal data to the organisation. The purposes are limited to those that are objectively obvious … Pursuant to section 15(1), consent is

> deemed to have been given by the individual's act of providing his personal data.

43 As for the second requirement, it again involves an objective inquiry. In this inquiry, amongst other factors, the nature of the personal data must be weighed against the purpose to be achieved in providing such data. For instance, it would be reasonable for an individual to voluntarily provide his name and contact details within a form for the purpose of participating in a free-to-enter competition, where no prize money is involved. Should the same form require the individual's bank account details, and the individual somehow complies, it would not be reasonable to consider that he volunteered the bank account details for the same purpose, since such sensitive personal data will not be required in relation to the purpose. As I will explain below, such an approach coheres with a check and balance mechanism inherent within s 15 of the PDPA.

(2) The scope of deemed consent

44 When the two requirements in s 15(1) of the PDPA are satisfied, the individual is deemed to have consented to the collection, use or disclosure of personal data for that purpose by the organisation.

45 I make two observations about the scope of deemed consent. First, it is wide in that it *potentially* enables the organisation not only to collect, but also to use or disclose the personal data which has been provided by the individual for a purpose. However, and secondly, it is narrow in that it imposes a restriction by permitting the organisation to collect, use or disclose the personal data only for that purpose, and I would suggest only to the extent that is required for that purpose. This is an important control mechanism inherent within the deemed consent framework, and it aligns with a limitation imposed within s 18 of the PDPA which I shall discuss at [51] below.

46 To illustrate, I set out the following examples set out in the PDPC Advisory (at para 12.21; see also, *eg*, *Universal Travel Corporation Pte Ltd* [2016] SGPDPC 4 at [10] and [13]):

> Example: Deemed consent for processing of payment
>
> Sarah makes a visit to a spa for a facial treatment. After the treatment is complete, the cashier tells her that the facial would cost her $49.99. She hands over her credit card to the cashier to make payment. The cashier need not ask for Sarah's consent to collect, use or disclose her credit card number and any other related personal data (e.g. name on credit card) required to process the payment transaction.
>
> Sarah is deemed to have consented to the *collection, use and disclosure* of her credit card number and other related personal data *for processing of the payment* as she voluntarily provided the personal data and it is reasonable that Sarah would provide the personal data to pay for her facial.
>
> Example: Deemed consent for health check-up
>
> Eva goes for a health check-up at a clinic and is given information on the tests that will be conducted, which involves the collection of her blood pressure, height and weight. By proceeding with the tests, Eva is deemed to consent to the *collection* of her personal data by the clinic *for the purposes of the health check-up.*
>
> Example: Deemed consent for taxi booking
>
> Tina calls a taxi operator's hotline to book a taxi. The customer service officer asks for her name and number to inform her of the taxi number, which Tina provides voluntarily. Tina is deemed to have consented to the taxi company *using* her name and number *to call or text her when her taxi arrives*.
>
> However, if the taxi operator runs a limousine service and wants to *use* Tina's information *to market this service to her, Tina would not be deemed to have consented to the use of her personal data for this purpose*. This is because *Tina is providing her personal data for booking a taxi for a single trip, and not for receiving marketing information about the limousine service.*
>
> [emphasis added]

47 From these examples, it can be gleaned that when an individual reasonably provides his personal data to an organisation for a purpose, he is

deemed to have consented to the collection, use or disclosure of the data by the organisation but only as required *for that purpose*. This approach has also consistently been applied by the PDPC: see, *eg*, *Actxa Pte. Ltd.* [2018] SGPDPC 5 at [31] and [34]; *Starhub Mobile Pte Ltd, M1 Limited and Singtel Mobile Singapore Pte. Ltd.* [2019] SGPDPC 12 at [21]; *German European School Singapore* [2019] SGPDPC 8 at note 4; *H3 Leasing* [2019] SGPDPC 9 ("*H3 Leasing*") at [11]. For example, in *H3 Leasing*, the PDPC held (at [11]) that:

> … the Affected Individual had provided his personal data to the Organisation for purposes relating to the rental of the motor vehicle and deemed consent under section 15 of the PDPA would apply in respect of such purposes. The scope of deemed consent permits the Organisation to *use and disclose* the Affected Individual's personal data to other allied service providers as necessary to provide the primary service of motor vehicle rental … [emphasis added]

48 As observed by the authors in Steve Tan & Victoria Tan, "Understanding How the PDPA Permits Organisations to Leverage on Personal Data in Achieving Innovation" [2022] PDP Digest 162 at para 5, "[t]he deemed consent mechanism alleviates the operational difficulties that may be encountered by an organisation in seeking to obtain express consent". Indeed, in the second reading of the Personal Data Protection Bill, the then Minister for Information, Communications and the Arts, Assoc Prof Dr Yaacob Ibrahim, explained (see Singapore Parl Debates; Vol 89, Sitting No 8; Page 830; [15 October 2012] (the "Second Reading")) that:

> While organisations are generally required to obtain consent, we recognise that it may not be practical for consent to be obtained in every situation. Clause 15 of the Bill provides for consent to be deemed when the individual voluntarily provides the personal data for a purpose, in a situation where it is reasonable for him to do so. For example, a person provides his personal data when registering with a clinic to seek medical treatment. It would be reasonable to deem that the person has given consent for the clinic to use his personal data for purposes related to his medical treatment at the clinic, and there is no need for the clinic to seek his consent in such

> situations. The provision for deemed consent enables organisations to collect, use or disclose personal data for reasonable purposes in situations where the individual need not give consent.

49 Hence, to reiterate, once the two requirements under s 15(1) of the PDPA are satisfied, the individual would be deemed to have consented to the collection, use or disclosure of his personal data by the organisation. However, such deemed consent only extends to what is required for the purpose for which the individual provided his personal data in the first place.

Obligations imposed by s 18 of the PDPA

50 I now turn to s 18 of the PDPA, which states:

> **Limitation of purpose and extent**
>
> 18. An organisation may collect, use or disclose personal data about an individual only for purposes —
>
> (*a*) that a reasonable person would consider appropriate in the circumstances; and
>
> (*b*) that the individual has been informed of under section 20, if applicable.

51 Given that this case turns on deemed consent, it is not disputed that s 18(*b*) of the PDPA does not apply: see s 20(3)(*a*) of the PDPA. As for s 18(*a*), it permits organisations to collect, use or disclose personal data *but* only for purposes that a reasonable person would consider appropriate in the circumstances (the "Purpose Limitation"). As alluded to above at [45], this is in line with the inherent limitation concerning the scope of deemed consent.

The overarching standard of reasonableness imposed on organisations

52 To recapitulate, I have set out the ambit of deemed consent, and the limitation placed on organisations to collect, use or disclose personal data "only for purposes that a reasonable person would consider appropriate in the

circumstances". Further, by s 11(1) of the PDPA, "[i]n meeting its responsibilities under the [PDPA], an organisation must consider what a reasonable person would consider appropriate in the circumstances". In other words, organisations would, in seeking to comply with the PDPA regime, be held to the standard of reasonableness (see Second Reading at p 830).

53 As Mr Piper argues, this is an objective standard.[47] More specifically, as the PDPC Advisory provides (at paras 9.1−9.5), the standard of reasonableness is ascertained by considering the particular circumstances and societal norms, and that a possible step that an organisation could take is to consider the affected individual's perspective:

> 9.4 In determining what a reasonable person would consider appropriate in the circumstances, an organisation should *consider the particular circumstance it is facing*. Taking those circumstances into consideration, the organisation should determine what would be the appropriate course of action to take in order to comply with its obligations under the PDPA based on what a reasonable person would consider appropriate.
>
> 9.5 A "reasonable person" is judged based on an *objective standard* and can be said to be a *person who exercises the appropriate care and judgement in the particular circumstance*. The Commission notes that the standard of reasonableness is *expected to be evolutionary*. Organisations should expect to take some time and exercise reasonable effort to determine what is reasonable in their circumstances. As being reasonable is not a black and white issue, organisations and individuals may find that there will be different expectations about what is reasonable. In assessing what is reasonable, a *possible step that an organisation could take is to view the situation from the perspective of the individual and consider what the individual would think as fair*.
>
> [emphasis added]

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47 AWS at paras 31−32.

My decision

54 With that, I return to the facts of this case. Preliminarily, I note that the parties have not disputed the DJ's finding that it would be appropriate to consider the Prior Disclosures, notwithstanding that these were not pleaded (see [15] above). As I highlighted above, the Prior Disclosures were only made known to Mr Piper at the trial through the evidence led by SKM (see [10] and [15] above). Hence, I proceed on the same basis. For the avoidance of doubt, while Ms Loi was the recipient of the information on all occasions, each instance remains a distinct act of disclosure; each instance should be assessed on its facts and circumstances.

55 To address the sub-issues set out at [34(a)] and [34(b)] above, the relevant inquiries are: (a) whether the two requirements under s 15(1) of the PDPA are satisfied such that Mr Piper can be deemed to have consented to the collection, use or disclosure of his personal data (and, if so, what the purpose for which such deemed consent has been given is); and (b) whether SKM's disclosure of the personal data to Ms Loi fell within the scope of the deemed consent and the Purpose Limitation. In undertaking the latter inquiry, SKM will be held to an objective standard of reasonableness (see [52]−[53] above). I turn to the first inquiry.

Whether Mr Piper should be deemed to have given consent and the scope of such deemed consent, if any

(1) Mr Piper voluntarily disclosed his personal data for the purpose of investigating his complaint

56 In relation to the first requirement under s 15(1)(*a*) of the PDPA, that Mr Piper must have voluntarily disclosed his personal data for a purpose, I agree with the DJ that he provided his identity and e-mail address through the 27

August E-mail for the objectively obvious purpose of investigating his complaint. As the DJ highlights, in this e-mail, Mr Piper told SKM that he hoped they "reach out to [Ms Loi], gain control of the Telegram group, and remove all of the nasty content in that group that she and her associates have posted" (Judgment at [34]). This was confirmed at trial by Mr Piper:[48]

> … Yes, the complaint that I wrote to SKM was asking SKM to investigate the complaint, because I had brought up some concerns that [Ms Loi's] behaviour was potentially infringing or impacting the reputation of SKM.
>
> …
>
> … I voluntarily gave my name and e-mail address to SKM … for the purpose of communicating with me, yes.

57 I thus agree with the DJ that Mr Piper voluntarily provided his name and e-mail address to SKM for the purpose of investigating his complaint against Ms Loi.

(2) It is reasonable that Mr Piper would voluntarily provide the personal data

58 I turn to consider the second requirement under s 15(1)(*b*) of the PDPA, namely whether it was reasonable that Mr Piper would voluntarily provide his name and e-mail address to SKM for the purpose of investigating the complaint. Having regard to the nature of the personal data provided, and how necessary this was to achieve the purpose for which it was provided, I agree with the DJ (see Judgment at [37]) that it was objectively reasonable for Mr Piper to have done so.

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[48] Notes of Evidence for 5 August 2024 ("5 Aug 24 NE") at p 8 lines 10−13 and p 13 lines 21−24.

59 As Mr Piper explained (see [21] above), he had to provide his name as SKM's personal data protection policy stipulated that "[g]enerally, [it was] unable to deal with anonymous complaints" because it would not be able to investigate such complaints.[49] Mr Piper also had to provide his e-mail address for SKM to correspond with him to provide updates and/or seek further information following its investigations into the matter.

60 Hence, it was reasonable for Mr Piper to have provided his name and e-mail address to SKM for the purpose of investigating his complaint. Since both requirements under s 15(1) of the PDPA are satisfied, I agree with the DJ (see Judgment at [38]) that Mr Piper should be deemed to have consented for his personal data to be collected, used, or disclosed *for the purpose of investigating his complaint against Ms Loi*.

Whether SKM's disclosure of the personal data to Ms Loi fell within the scope of the deemed consent and the Purpose Limitation

61 It then follows that SKM could *only* have collected, used or disclosed Mr Piper's full name and e-mail address for the *sole* purpose of investigating his complaint against Ms Loi. I turn to the next inquiry, namely, whether the disclosure of Mr Piper's personal data to Ms Loi fell within the purpose of investigating the complaint.

62 On this issue, I depart from the DJ's findings. While it does appear that the DJ had in mind an objective test (as evidenced from his reference to the "reasonable person" standard stipulated in s 11(1) of the PDPA (see Judgment at [43]−[44])), I find that, substantively, the DJ applied the wrong test or erred in applying the reasonableness test contemplated under ss 11(1) and 18(*a*) of

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[49] ROA at p 603.

the PDPA. In determining whether the investigation process was reasonable, the DJ appears to have left the matter almost entirely to SKM's discretion, or at the very least, accorded a great deal of deference to SKM. To elaborate, he held, *inter alia*, that "[i]t is for [SKM] to decide how to go about the investigation in the most effective manner" and that "[i]t is not for [Mr Piper] to dictate how [SKM] should go about it" (Judgment at [39]).

63 In my view, the problem with this approach is that it would render the reasonableness standard nugatory. Effectively, it would mean that so long as an individual is deemed to have provided his consent to the organisation to collect, use or disclose his personal data for a purpose, the organisation will be allowed to proceed in relation to the purpose *however it wishes.* There would be no scrutiny into whether, objectively speaking, the organisation's actions are (or are not) reasonable for such a purpose. That cannot be right. Instead, in its conduct, the organisation must still be held to an objective standard of reasonableness.

64 Here, contrary to the DJ's findings (Judgment at [40] and [53]), I find that it was not reasonable for SKM to have disclosed Mr Piper's identity and e-mail address to *Ms Loi* in the course of investigations. While Mr Piper is deemed to have consented to SKM's disclosure of his personal data to investigate the complaint against Ms Loi, it was not objectively reasonable for SKM to have disclosed the personal data to *Ms Loi*, unless the information was required or necessary for investigating the matter.

65 Contrary to SKM's argument (see [28] above) and the DJ's finding (Judgment at [39]), that is not the case here. In relation to the 30 August Disclosure and the 31 August Disclosure, as Mr Piper argues (see [22] above), it was completely unnecessary, and hence unreasonable, for SKM to have

disclosed Mr Piper's personal data to Ms Loi to investigate his complaint. Neither would disclosing such personal data facilitate investigations. I pause to observe that the complaint was not about Ms Loi's conduct in relation to Mr Piper specifically. Therefore, SKM could simply have approached Ms Loi, stated the allegations that it was investigating her for, and sought the necessary clarifications from Ms Loi.

66 Upon receiving Ms Loi's clarifications, SKM could have come to its findings, before taking the appropriate remedial action, if any. Had Ms Loi refused to cooperate, SKM could have considered other means to escalate the matter for investigations (given that the complaint seemingly implicated SKM). There was simply no need for SKM to have authenticated Mr Piper's identity with Ms Loi before carrying out its investigations, because no part of the investigations would have turned on the identity or e-mail address of the complainant. Put another way, it was immaterial whether Ms Loi knew Mr Piper's personal data. Thereafter, on 1 September 2022, it was completely unnecessary for SKM to blind copy Ms Loi in its reply to Mr Piper, giving rise to the 1 September Disclosure. Again, if required, SKM could simply have updated Ms Loi on the contents of its response.

67 The fact that Mr Piper remained persistent in his complaints by sending the 4 September E-mails does nothing to change the analysis. SKM could have carried out further investigations using the fresh material provided by Mr Piper with equal efficiency and efficacy without disclosing Mr Piper's personal data to Ms Loi. Alternatively, if SKM was of the view the Mr Piper's further complaints were without merit, it could simply have told him the same. Even at that stage, there would have been no reason for SKM to disclose Mr Piper's identity and e-mail address to Ms Loi. Thus, the 7 September Disclosure was not reasonable.

68 Further, while SKM might, out of goodwill, have wanted to facilitate *conciliation* between Mr Piper and Ms Loi (see [28] above), such a purpose would not have fallen within that for which Mr Piper is deemed to have given his consent, *ie*, to *investigate* his complaint. This argument therefore does not assist SKM, in relation to the 7 September Disclosure (see [9] above).

69 To round off, in the context of complaints, one would reasonably contemplate the possibility of the person complained against feeling aggrieved, bearing some grudge and even taking some form of retaliatory action against the complainant. Even if a complainant should be expected to stand by his complaint, one would also reasonably contemplate the complainant being concerned about any such repercussions. Hence, it would, whether from the complainant's perspective (see [53] above) or from an objective commonsensical perspective, be reasonable for an organisation to disclose the complainant's personal data to the person complained against, only if it is required or necessary for the purpose of investigating the matter. The nature of the allegations would be important. One instance where such disclosure may be required or necessary is if the complainant alleges wrongdoing specifically committed against himself or herself.

70 In these premises, I agree with Mr Piper that the DJ erred in finding that SKM's disclosure of Mr Piper's identity and e-mail address to Ms Loi was reasonable. Instead, unless SKM can avail itself of one of the exceptions in the PDPA, it has breached ss 13 and 18(*a*) of the PDPA as the disclosure of Mr Piper's personal data did not fall within the scope of his deemed consent and the Purpose Limitation.

71 Having reached the outcome above, I do not propose to deal with Mr Piper's arguments (see the sub-issue at [34(d)] above) that the DJ erred in the

suggestion that, in situations involving deemed consent, the onus would be on the affected individual to take the additional step to expressly instruct the organisation to keep his identity confidential if he so wishes (Judgment at [42]). I also see no need to engage with the parties' arguments on whether Mr Piper's initial complaint to SKM is analogous to a whistleblowing situation. These arguments are not entirely helpful, and I thus make no further comment on this sub-issue set out at [34(c)] above.

Whether SKM can rely on the Investigation Exception

72 For completeness, I turn to consider SKM's alternative argument, that it can, contrary to the DJ's decision, avail itself of the Investigation Exception (see the sub-issue at [34(e)] above). The Investigation Exception allows the collection, use or disclosure of personal data about an individual without the individual's consent, when it is "necessary" for any "investigation", which is defined in s 2(1) of the PDPA as follows:

> "investigation" means an investigation relating to —
>
> (*a*) a breach of an agreement;
>
> (*b*) a contravention of any written law, or any rule of professional conduct or other requirement imposed by any regulatory authority in exercise of its powers under any written law; or
>
> (*c*) a circumstance or conduct that may result in a remedy or relief being available under any law;

73 From the plain wording of its definition, the applicable forms of "investigation" which would fall under the Investigation Exception is broadly defined, and includes those which *may* result in any remedy or relief available under any law. I hence agree with SKM (see [29] above) that the DJ's interpretation of the applicable forms of investigations to only include those that relate to a wrong that *is* actionable in law is too narrow.

74 However, SKM is still precluded from relying on the Investigation Exception. For reasons already explained above (at [64]−[69]), and as Mr Piper argues,[50] it was unnecessary for SKM to have disclosed Mr Piper's name and e-mail address to Ms Loi. Hence, it remains that SKM has acted in contravention of ss 13 and 18(*a*) of the PDPA. With that, I turn to consider the Loss Issue.

The Loss Issue

My decision

75 Having considered the DJ's reasoning and the parties' arguments, I am unable to accept both of Mr Piper's broad arguments (see [25]–[26] above). I explain, beginning with Mr Piper's first broad argument that the DJ erred by applying the direct causal requirement too stringently.

Whether the legal chain of causation between SKM's breaches and Mr Piper's alleged losses was broken

76 In *Reed*, the Court of Appeal held (at [90], [93], [102] and [107]), in relation to the then-equivalent provision to s 48O of the PDPA, that while s 48O(1) of the PDPA does not exclude emotional distress from the meaning of "loss and damage", a "strict causal link" is required for such a claim to succeed. This means that the "loss or damage" (including emotional distress) must have been suffered "*directly* as a result of a contravention" of the PDPA [emphasis in original]. Such a requirement serves as a control mechanism to prevent individuals from commencing frivolous lawsuits against organisations even for minor or technical breaches of the PDPA.

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50 ARS at para 11.

77 In my view, the DJ did not err in applying the strict causal link test stringently (Judgment at [89]). As the DJ correctly observed (Judgment at [90]), such an approach also coheres with Parliament's intent (see Second Reading at p 832):

> The [Personal Data Protection] Bill also allows individuals to seek compensation for damages *directly* suffered from a breach of the data protection rules through private rights of action. [emphasis added]

78 Applying this test, I agree with the DJ that SKM's breach of the PDPA did not directly lead to the purported emotional distress suffered by Mr Piper arising from Ms Loi's filing of her POHA claim against him and her publication of the process via the Album (Judgment at [94]−[100]). In this regard, I broadly accept SKM's argument (see [32] above) that Ms Loi's actions broke the chain of causation between SKM's breach and Mr Piper's purported emotional distress, much like a *novus actus interveniens* in the context of common law torts. As observed in Gary Chan Kok Yew & Lee Pey Woan, *The Law of Torts in Singapore* (Academy Publishing, 2nd Ed, 2016) at para 07.078, in assessing whether the intervening action of a third party constitutes a *novus actus interveniens* sufficient to break the chain of causation at law, it is relevant to consider the likelihood of the third party's act occurring:

> In order that the chain [of causation] is not broken by a *novus actus interveniens*, it has been said that the alleged intervention of human action must be something likely to occur, or the risks of such a happening was "glaringly obvious", or there was "manifest and obvious risk".
>
> [emphasis in original omitted]

79 In the present case, while I have earlier found (at [69] above) that one would reasonably expect the possibility of a person who is the subject of a complaint taking *some form* of retaliatory action against the complainant if the latter's identity is leaked to the former, I do not think that Ms Loi's retaliatory

behaviour, *ie*, to have commenced an action against Mr Piper and to have documented this process publicly via the Album, can be said to be "likely to occur" or "glaringly obvious", or to have posed a "manifest and obvious risk". My finding is bolstered by Mr Piper's submission that Ms Loi had, in publicly documenting the process of her POHA claim, further revealed details such as Mr Piper's surname and the case number assigned to her POHA claim (through which Mr Piper's identity can be established through a search of the hearing list *via* the Judiciary's website).[51]

80 Given this, I find that Ms Loi's behaviour broke the legal chain of causation between SKM's breaches of the PDPA and the purported emotional distress suffered by Mr Piper. Indeed, I note that Mr Piper has commenced his own POHA claim against Ms Loi on 27 July 2023.[52] For the avoidance of doubt, I make no comment on this claim in this judgment.

Whether Mr Piper suffered any loss actionable under s 48O of the PDPA

81 I turn to consider Mr Piper's second broad argument, that he suffered emotional distress actionable under s 48O of the PDPA due to SKM's breaches of the PDPA *per se*. Preliminarily, I accept that this head of damages could have been better pleaded (see [33] above). However, I also note that Mr Piper has pleaded that SKM's "response … in respect of its PDPA breaches exacerbated the emotional distress" he suffered,[53] which could, when interpreted charitably, be understood as averring that he suffered actionable emotional distress due to SKM's breaches *per se*. I hence proceed to consider this argument substantively.

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51 Piper's AEIC at para 56.

52 Piper's AEIC at para 63(a).

53 See ROA at p 379 paras 22−24.

82 I am unable to find that Mr Piper suffered actionable emotional distress. In *Reed*, the Court of Appeal held (at [114] and [116]) that, in ascertaining the presence of actionable emotional distress, the test cannot be a fully objective one. Instead, the inquiry must be anchored in whether the very individual before the court subjectively suffered emotional distress. That is not to say, however, that the court cannot direct its mind to how a reasonable person would have reacted in the relevant circumstances as an evidential tool to assess the individual claimant's subjective state of mind. Further, negative emotions that should be tolerated as part of the ordinary vicissitudes of life do not amount to actionable emotional distress. It will also often be the case that greater weight will be attached to objective indicia of emotional distress, as compared with bald assertions in an affidavit.

83 With these principles in mind, the Court of Appeal held (at [115]) that a multi-factorial approach is suitable for determining whether an individual has suffered emotional distress, and provided a few *non-exhaustive* considerations to guide the court in this inquiry:

> (a) the nature of the personal data involved in the breach: for instance, financial data is likely to be sensitive;
>
> (b) the nature of breach: *eg*, whether the breach of the PDPA was one-off, repeated and/or continuing;
>
> (c) the nature of the defendant's conduct: for instance, proof of fraudulent or malicious intent may support an inference that the claimant was more severely affected. In contrast, an accidental breach by a single typographical error is unlikely to cause cognisable distress. In addition, if the claimant reasonably seeks an undertaking from the defendant not to misuse his or her personal data, but the defendant unreasonably

refuses to furnish an undertaking, this is a weighty factor in favour of the existence of emotional distress;

(d) risk of future breaches of the PDPA causing emotional distress to the claimant; and

(e) actual impact of the breach on the claimant.

84 In *Reed*, the appellant was an investor of an investment fund (the "Edinburgh Fund") managed by a company in the business of managing funds, namely "IPIM" (*Reed* at [6] and [8]). The respondent was originally employed under a company connected to IPIM, to be referred to as "IPRE", before being seconded to another associated company (*Reed* at [6]). He subsequently left the employ of IPRE to join a competitor set up by the former chief executive officer of IPIM (*Reed* at [7]). Subsequently, the respondent contacted some investors in the Edinburgh Fund, including the appellant (*Reed* at [8]). In doing so, he misused the personal data regarding the appellant's name, personal e-mail address and investment activity in the Edinburgh Fund (see *Reed* at [10] and [53]), and was thus found to have breached ss 13 and 18 of the PDPA (*Reed* at [55]).

85 The Court of Appeal further found, applying the multi-factorial approach, that the claimant suffered actionable emotional distress:

(a) Nature of personal data: The personal data misused by the respondent included information about the appellant's personal investments, which was sensitive, especially for a business leader like the appellant (*Reed* at [129]).

(b) Nature of defendant's conduct: The respondent was evasive and dismissive when confronted about his misuse of the appellant's personal data (*Reed* at [131]).

(c) Risk of future breaches: The respondent refused to offer any assurances that the appellant's personal data would be protected and not spread to third parties (*Reed* at [130]).

(d) Claimant's contemporaneous behaviour: Six days following the respondent's breaches of the PDPA, the appellant sent an e-mail to IPIM, confronting IPIM on what had occurred (*Reed* at [9], [10] and [121]). A week later, the appellant wrote to the respondent directly asking him how he managed to access his personal data (*Reed* at [12] and [122]). In his e-mail reply to the appellant, the respondent failed to undertake not to make further unauthorised use of the appellant's personal data, or address how the data would be protected (*Reed* at [125]). The appellant forwarded this e-mail to IPIM, complaining that the respondent had failed to address his concerns (*Reed* at [126]). He further joined a suit commenced by IPIM and IPRE against the respondent to prevent the chance of injunctive relief being defeated by the lack of standing on the companies' part (*Reed* at [128]).

86 In my view, the present case is distinguishable from *Reed*, and the facts here suggest that Mr Piper did not suffer actionable emotional distress. I explain the various factors I have considered.

(1) Nature of personal data and nature of SKM's breaches

87 I accept Mr Piper's arguments (see [26(a)] above), contrary to the DJ's findings (see Judgment at [111]), that in the context of a serious complaint, the

name of the complainant would constitute sensitive data: see *Credit Counselling Singapore* [2017] SGPDPC 18 at [11]. I do not place much weight on SKM's argument that it only revealed Mr Piper's data to a single individual. While this is true, in the context of a complaint, it may be especially inappropriate to reveal the complainant's identity to the individual being complained against. That said, while SKM's breach was not one-off (given the Prior Disclosures), I appreciated that the damage would already have been caused to Mr Piper on SKM's *first* disclosure of his identity to Ms Loi on 30 August 2022.

(2) Nature of Mr Piper's purported emotional distress

88 A perusal of the evidence suggests that Mr Piper did not, as a matter of fact, suffer any *actionable* emotional distress as a *direct* result of SKM's breaches of the PDPA *per se* (*ie*, independent of Ms Loi's conduct). Instead, Mr Piper was mainly indignant over SKM's breaches of the PDPA, and any emotional distress he suffered stemmed primarily from Ms Loi's actions following Mr Piper's initial complaint against her to SKM. I say so for three reasons.

89 First, Mr Piper was served the relevant court documents notifying him of Ms Loi's POHA claim against him on 14 September 2022, which was just a week after he came to find out about SKM's breaches of the PDPA.[54] Further, by Mr Piper's account, Ms Loi visited him at his workplace and viewed his LinkedIn profile as early as on 9 September, just two days after SKM sent the 7 September Email.[55] While these facts do not in themselves negate the possibility or plausibility of Mr Piper suffering from actionable emotional distress due to SKM's PDPA breaches *per se*, they are important because they show that a

54 Piper's AEIC at para 19.

55 Piper's AEIC at para 52; ARS at para 40.

significant intervening event was introduced shortly following the breaches. From as early as 9 September 2022, if not 14 September 2022, it would be less clear whether any emotional distress suffered by Mr Piper stemmed from SKM's breaches of the PDPA *per se*, or from Ms Loi's subsequent actions, or from both.

90 Second, the evidence suggests that, on his own case, any emotional distress suffered by Mr Piper stemmed mainly from Ms Loi's subsequent actions. Whether in his Statement of Claim or Affidavit of Evidence-in-Chief ("AEIC"), the general tenor of Mr Piper's case is that he suffered from emotional distress due to Ms Loi's actions, and that SKM's breaches of the PDPA (with its subsequent "dismissive, cavalier and evasive response") merely "exacerbated" his emotional distress.[56] The same can be said about the evidence of Ms Loh and Ms Cheow on this issue as deposed in their respective AEICs (and as stated in the exhibits contained therein).[57] Even in his Letter of Demand sent to SKM through his lawyers on 6 October 2022 (the "6 October Letter"), Mr Piper makes no reference to any emotional distress caused by SKM's breaches of the PDPA *per se*. Instead, the letter stated that "[a]s a result of [SKM's breach of] ... the PDPA obligations, [Mr Piper] is now subject to a frivolous POHA Claim by [Ms Loi]".[58] Most tellingly, at trial, Mr Piper testified that "the *initial* emotional distress came on or about *with* the start of the initial POHA claim by [Ms Loi] against [him] ..." [emphasis added].[59]

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56 See ROA at p 379 paras 20−24; Piper's AEIC at paras 34−77.

57 Affidavit of Evidence-in-Chief of Loh Ai Ming Vivian dated 3 May 2024 ("Loh's AEIC") at paras 10−14; Affidavit of Carissa Cheow Hui Ying dated 3 May 2024 ("Cheow's AEIC") at paras 12−23.

58 Piper's AEIC at p 216 para 8.

59 5 Aug 24 NE at p 50 lines 21−22.

91 Third, the evidence suggests that SKM's breaches of the PDPA *per se* and its subsequent response caused Mr Piper some *offence*. However, they do not demonstrate that he suffered emotional distress. For example, on 22 June 2023, Mr Piper sent Ms Loh a text message stating that SKM was "trying to ignore [his] lawyer's letters", that "they won't be able to ignore a summons", and, tellingly, that "they self sabo [*ie*, they sabotaged themselves] anyway".[60] Such a tone points to Mr Piper feeling indignant. Indeed, Ms Loh deposed that she "sensed that some of the stress felt by [Mr Piper] was also due to his sense of *misjustice*" [emphasis added].[61]

(3) Nature of SKM's conduct and risk of future breaches

92 From the reasons just canvassed, I am also of the view that the present case is distinguishable from *Reed*. In *Reed*, as the DJ correctly alluded to (Judgment at [112(b)] and [112(c)]), it was reasonable for the appellant to have subjectively perceived a real prospect of future misuse of personal data, especially since the respondent refused to assure the appellant that his personal data would be protected and not spread to third parties and was instead evasive in addressing his concerns.

93 In this regard, at first glance, I see the force in Mr Piper's position (see [26(b)] above) that SKM was, especially from Mr Piper's subjective perspective, somewhat evasive in managing the aftermath of its PDPA breaches. Specifically, it is not entirely satisfactory (especially when a subjective approach from Mr Piper's perspective is adopted – see [82] above) that SKM only replied to address Mr Piper's 6 October Letter eight months later on 5 June 2023. The reply came after Mr Piper's lawyers sent a chaser to SKM on 13

60 Loh's AEIC at p 8.

61 Loh's AEIC at para 14.

October 2022 (the "13 October E-mail"), and Mr Piper's second chaser on 28 May 2023.[62] Further, in its reply, SKM did not respond substantively to the 6 October Letter, but merely apologised for missing Mr Piper and his lawyers' prior emails, and stated that it did not receive the 6 October Letter which was attached to the 13 October E-mail.[63]

94 When Mr Piper's lawyers later replied to SKM, re-attaching the 6 October Letter and clarifying that the 13 October E-mail in fact contained the same, SKM provided no further response.[64] This was on the instruction of Dr William Wan, SKM's Senior Consultant, who, on 13 June 2023, instructed the data protection officers not to respond directly to Mr Piper's lawyers until further notice.[65]

95 While I can accept that SKM might have adopted this course of action because it was conducting internal investigations (see [33(b)] above), it appears that SKM did not subsequently update Mr Piper regarding the outcome of such investigations. It also appears that SKM's internal investigations pertained only to its failure to respond to Mr Piper within two working days of the 6 October Letter, rather than to its actual breaches of the PDPA.[66] Following its investigations, from Mr Piper's perspective, SKM merely updated its privacy policy to give itself "a reasonable period of time" instead of the original "two days" to respond to any PDPA complaints.[67] It is, in my view, reasonable for Mr Piper to have subjectively perceived this series of actions by SKM as being

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62 Piper's AEIC at paras 35−39 and pp 241−245.

63 Piper's AEIC at p 241.

64 Piper's AEIC at p 241.

65 Piper's AEIC at p 258 para 5 and p 261 para 3.1.

66 See generally Piper's AEIC at pp 258−263.

67 Piper's AEIC at p 262 para 5.1.

evasive. It might hence, at first blush, be said that the present case is analogous to *Reed*.

96 However, the facts in *Reed* differ from those in the present case in one key aspect. There, the appellant perceived a real prospect of future misuse of personal data, and this subjective perspective was reasonable considering the respondent's evasiveness in addressing the appellant's concerns (see *Reed* at [121]−[128]). Under such circumstances, one can intuitively appreciate why the appellant in *Reed* would have felt particularly anxious about the respondent further abusing his personal data (see also [83(c)] and [83(d)] above).

97 In the present case, there is no evidence to suggest that Mr Piper faced any prospect of future misuse of his personal data, especially since Mr Piper's complaint pertained only to Ms Loi. Given this, I am of the view that SKM's somewhat evasive response to Mr Piper's demands for an explanation of why his personal data was disclosed to Ms Loi is not a factor which would tip the scales in favour of finding that Mr Piper suffered actionable emotional distress from SKM's breaches of the PDPA *per se*.

(4) Actual impact of SKM's PDPA breaches

98 Finally, I agree with SKM (see [33(c)] above) that the DJ was correct in finding that Mr Piper has not adduced sufficient evidence to prove the actual impact which he claims SKM's PDPA breaches had caused him emotionally (see Judgment at [107]−[110]). As the DJ observed, Ms Loh and Ms Cheow's evidence on this issue was insufficiently particularised and substantiated. The purported medical evidence presented by Mr Piper also say nothing about his emotional state.[68]

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[68] See Piper's AEIC at pp 795−799.

(5) Conclusion

99 Balancing the above considerations, I am of the view that, on a subjective multi-factorial approach, Mr Piper did not suffer any emotional distress that is actionable under s 48O of the PDPA. To be clear, that is not to say that Mr Piper did not suffer *any* emotional harm from the material events. The court must, however, be cautious not to award damages for emotional distress too readily, especially since mental distress by itself does not traditionally constitute sufficient damage to found a cause of action (*Arul Chandran v Gartshore and others* [2000] 1 SLR(R) 436 ("*Arul Chandran*") at [13]).

100 As the Court of Appeal emphasised in *Reed* (at [116], citing *Arul Chandran* at [13]), "pure mental suffering without physical injury [is] an inevitable fact of interpersonal relationships in private and public life alike" and "people must learn to accept with a certain degree of stoicism the slings and arrows of this vale of tears". The *de minimis* principle is meant to be a control mechanism which will keep the scope of s 48O PDPA claims within reasonable bounds (*Reed* at [102(a)]). Indeed, and without going into details, within the PDPA, there are other measures available to enforce compliance by organisations with their PDPA obligations.

Conclusion

101 For the reasons above, I find, contrary to the DJ's decision, that in disclosing Mr Piper's name and e-mail address to Ms Loi through the Prior Disclosures and the 7 September Disclosure, SKM breached ss 13 and 18(*a*) of the PDPA. However, I agree with the DJ that Mr Piper did not suffer any actionable loss under s 48O of the PDPA. In light of the latter finding, the appeal

is dismissed. Parties are to file written submissions on costs within two weeks of this decision.

Hoo Sheau Peng
Judge of the High Court

Fong Wei Li (Kuang Weili), Tiffanie Lim Jing Wen and Choy Su Wen (Forward Legal LLC) for the appellant;
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