

FIRST DIVISION

[A.M. No. P-06-2253 (Formerly A.M. No. 06-9-297-MTC), July 12, 2017]

THE OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, V. ELIZABETH R. TENGCO, CLERK OF COURT II, MUNICIPAL TRIAL COURT, STA. CRUZ, LAGUNA, RESPONDENT.

[A.M. No. P-07-2360 (Formerly OCA IPI No. 06-2427-P), July 12, 2017]

JUDGE ELPIDIO R. CALIS, COMPLAINANT, V. ELIZABETH R. TENGCO, CLERK OF COURT II, MUNICIPAL TRIAL COURT, STA. CRUZ, LAGUNA, RESPONDENT.

[A.M. No. P-13-3157 (Formerly A.M. No. 12-4-30-MTC), July 12, 2017]

THE OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, V. ELIZABETH R. TENGCO, FORMER CLERK OF COURT II, MUNICIPAL TRIAL COURT, STA. CRUZ, RESPONDENT.

DECISION

LEONARDO-DE CASTRO, J.:

These consolidated administrative matters arose from *(i)* the Memorandum dated March 30, 2006 of Judge Elpidio R. Calis (Judge Calis), Presiding Judge, Municipal Trial Court (MTC), Sta. Cruz, Laguna addressed to then Court Administrator, now Associate Justice of the Court, Honorable Presbitero J. Velasco, Jr., recommending that Ms. Elizabeth R. Tengco (Tengco), Clerk of Court II, MTC, Sta. Cruz, Laguna be suspended from work; that her salaries and other benefits be withheld; and that an immediate financial audit of her books of accounts be undertaken; and *(ii)* the Financial Audit conducted on the Books of Accounts of Tengco, the designated custodian of court funds, during the period of April 1, 2000 to March 26, 2006.

Antecedents

In a Memorandum dated February 27, 2006, Judge Calis directed Tengco to explain the following:

1. Failure to deposit Fiduciary Fund Collection;
2. Delayed (sic) in the Release of Cash Bond;
3. Failure to prepare and submit your Statement of Unwithdrawn Fiduciary Fund; [and]

4. Failure to explain the alleged wrong assessment of filing fees of Violation of BP 22 under Criminal Cases (sic) Nos. 32872 to 32874.^[1]

The Memorandum was issued as a result of--

[A] random checking and comparison of Unwithdrawn Cash Bond available on [record] and Unwithdrawn Cash Deposit as reflected in the Xerox copies of the Fiduciary Bank Book reveals that there are Fiduciary Fund Collection duly receipted posted by the accused for the period of 2004-2005 that were not deposited.

Furthermore, since the alleged wrong assessment of the filing fees you made in the Violation of BP 22 under Criminal Cases (sic) Nos. 32782 to 32784 and came to the attention of the Court last December 2005 and after confronting you, and directed to explain, you failed up to the present.^[2]

Criminal Case Nos. 32782-84 involved the violation of Batas Pambansa Bilang 22 by the spouses Edwina and Ferdinand Dator before the MTC, Sta. Cruz, Laguna. The complaint was filed by one Jonathan Rebong (Rebong) and his mother. According to Rebong, Tengco required him to pay P400,000.00, instead of just P75,525.00, as filing fees for the two complaints.^[3]

Due to the continued absence of Tengco since February 27, 2006, in a letter dated March 1, 2006, Judge Calis wrote the Office of the Court Administrator (OCA) for the immediate conduct of a financial audit of the Books of Accounts of Tengco on the ground that "*there are complaints about the delay of released (sic) of the Fiduciary bond due to the bondsman after the case has been dismissed or decided. Thus, a random checking of [some] approved cash bond duly receipted (sic) by the Clerk of Court and compared to the Fiduciary Bank Book reveals that cash bond are not deposited on time or not deposited at all.*"^[4]

In the meantime, Judge Calis designated Ms. Leslie San Juan (San Juan), Court Stenographer, MTC, Sta. Cruz, Laguna as the acting accountable officer of said sala.

On March 9, 2006, Judge Calis issued another Memorandum to Tengco directing her to report to work, otherwise she would be considered AWOL or absent without official leave. However, Tengco still failed to do so.

On March 22, 2006, Judge Calis issued a third Memorandum that (i) directed Tengco to submit her monthly report of Judiciary Development Fund (JDF), Special Allowance for the Judiciary Fund (SAJF), and Fiduciary Fund (FF) collections; (ii) reminded Tengco to turn over all records in her possession; and (iii) reiterated his earlier directive to Tengco to explain the alleged wrong assessment of filing fees in Criminal Case Nos. 32782-84 for violation of Batas Pambansa Blg. 22. But, as with the other earlier memoranda, Tengco still failed to comply thereto.

**Re: A.M. No. P-06-2253 (formerly
A.M. No. 06-9-297-MTC [Re:
Partial Report on the Financial
Audit Conducted on the Books of
Accounts of Ms. Elizabeth R.
Tengco, Clerk of Court II,**

***Municipal Trial Court, Sta. Cruz,
Laguna])***

Acting on the letter of Judge Calis dated March 1, 2006, the Court Management Office (CMO)-OCA formed a Financial Audit Team to look into the Books of Accounts of the MTC, Sta. Cruz, Laguna vis-a-vis the accountability of Tengco during the period that she was the Clerk of Court of said sala, from April 1, 2000 to February 28, 2006.

The Financial Audit Team's Partial Report of said financial audit was docketed as A.M. No. 06-9-297-MTC.

In a Memorandum dated August 23, 2006, the OCA adopted and recommended the approval of the Partial Report containing the following findings and recommendations:

**SUMMARY OF CASH ACCOUNTABILITIES OF MS. ELIZABETH R. TENGCO
AS OF MARCH 31, 2006**

FUND	AMOUNT
Judiciary Development Fund	P619,521.39
Special Allowance for the Judiciary Fund	143,079.60
Clerk of Court General Fund	64,866.00
Clerk of Court Fiduciary Fund	1,326,503.91
Philippine Mediation Fund	5,500.00
TOTAL	P2,159,470.90

The findings and recommendation of the team are hereby adopted and recommend approval thereof[,] to wit:

1. This Report be docketed as a regular administrative complaint against Ms. Elizabeth Tengco, Clerk of Court II, Municipal Trial Court, Sta. Cruz, Laguna;

2. MS. ELIZABETH TENGCO, Clerk of Court of the Municipal Trial Court (MTC), Sta. Cruz, Laguna be:

(a) DIRECTED to:

a.1 RESTITUTE the amounts of P619,521.39, P143,079.60, P64,866.00, P746,603.91 and P5,500.00 representing the shortages in the JDF, SAJF, GF, Fiduciary Fund and Philippine Mediation Fund, respectively, by depositing said amounts to their respective accounts, furnishing the Fiscal Monitoring Division, CMO-OCA, with the machine validated deposit slips as proof of remittance x x x;

xxxx

a.2 EXPLAIN in writing within the period of fifteen days (15) from notice the ff:

a.2.1) why she incurred the above shortages in her collections;

a.2.2) the failure to remit her collections on time for the Fiduciary Fund as follows:

O.R. No.	Date of Collection	Date Deposited	Amount	Period Delayed
16370583	7/19/2004	3/20/2006	P3,000.00	1 yr. & 8 months
17897401	7/19/2004	3/20/2006	1,000.00	1 yr. & 8 months
	8/4/2004	3/20/2006	500.00	1 yr., 7 months & 16 days
17897453 & 55	8/9/2004	3/20/2006	1,000.00	1 yr., 7 months & 11 days
17897469	8/17/2004	3/20/2006	500.00	1 yr., 7 months & 3 days
17897595 to 600	10/5/2004	3/20/2006	24,000.00	1 yr., 5 months & 15 days
I7899126	2/9/2005	3/20/2006	6,000.00	1 yr., 1 month & 11 days
862534	5/3/2005	3/20/2006	4,000.00	10 months & 17 days
862536	5/4/2005	3/20/2006	4,500.00	10 months & 16 days
862658	6/1/2005	3/20/2006	5,000.00	9 months & 19 days
862728	7/18/2005	3/20/2006	500.00	8 months & 2 days
1325177	10/25/2005	3/20/200	6,000.00	4 months & 23 days
1325385	9/21/2005	3/20/2006	5,500.00	5

to 86				months
1325375	9/21/2005	3/20/2006	3,000.00	5 months
1325063 to 64	7/21/2005	3/20/2006	6,000.00	7 months
1325159	10/27/2005	3/20/2006	6,000.00	4 months & 25 days
1325171	10/20/2005	3/20/2006	4,000.00	5 months
16371086	12/5/2005	3/20/2006	500.00	3 months & 15 days
1325461	12/13/2005	3/20/2006	500.00	3 months & 7 days
17897450	8/6/2004	3/7/2006	2,000.00	1 yr. & 7 months
17897459	8/10/2004	3/7/2006	1,500.00	1 yr, 6 months & 25 days
17897464	8/13/2004	3/7/2006	2,000.00	1 yr, 6 months & 22 days
17897479	8/23/2004	3/7/2006	2,500.00	1 yr, 6 months & 12 days
17897503	9/3/2004	3/7/2006	6,000.00	1 yr, 6 months & 4 days
17897533	9/10/2004	3/7/2006	1,000.00	1 yr, 5 months & 25 days
1325352	9/13/2004	3/7/2006	10,000.00	1 yr, 5 months & 22 days
17897543	9/14/200	3/7/2006	3,000.00	1 yr, 5 months & 21 days
17897562	9/20/2004	3/7/2006	15,000.00	1 yr, 5 months