

EN BANC

[A.M. No. SDC-14-7-P (Formerly A.M. No. 14-09-01-SC), December 06, 2016]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ASHARY M. ALAUYA, CLERK OF COURT VI, SHARI'A DISTRICT COURT, MARAWI CITY, LANA DEL SUR, RESPONDENT.

DECISION

PER CURIAM:

This administrative matter stemmed from the financial audit conducted on the books of accounts of the Shari'a District Court (SDC), Marawi City, Lanao del Sur, covering the period of 1 March 1992 to 28 February 2003 and 1 March 2005 to 31 August 2013.

The financial audit on the books of accounts of Mr. Ashary M. Alauya^[1] (Mr. Alauya), Clerk of Court VI, SDC, Marawi City was conducted upon the recommendation of the Legal Office^[2] and the request of the Accounting Division, Financial Management Office (FMO),^[3] both in the Office of the Court Administrator (OCA), for failure of the aforesaid court to submit monthly financial reports despite several notices and due to the anonymous letter-complaint filed against its clerk of court.

The primary objective of the audit was to determine the accuracy and regularity of the cash transactions of the SDC, Marawi City and whether all the judiciary fund collections have been deposited in full within the prescribed period. The audit was also for the purpose of examining whether the filing fees collected are in accordance with Rule 141 of the Rules of Court. It was also an opportunity to apprise the clerk of court concerned on proper bookkeeping and accounting of the court's judiciary funds.

The judiciary funds being collected by the court are the Fiduciary Fund (FF), Sheriff's Trust Fund (STF), Judiciary Development Fund (JDF), Special Allowance for the Judiciary Fund (SAJF), General Fund-Old (GF-Old), Sheriff's General Fund (SGF), Mediation Fund (MF) and Legal Research Fund (LRF).

After the examination of all available documents of SDC of Marawi City, the audit team made the following findings and observations, to wit:

I. Cash Count

Mr. Alauya was not in the Office of the Clerk of Court (OCC), SDC, Marawi City when the audit team arrived on 2 September 2013. Hence, the team asked the staff to contact Mr. Alauya and require him to report for work to witness the conduct of the financial audit on his books of accounts. The team, however, was only able to talk, over the phone, to Mr. Alauya's wife and she informed the team that Mr. Alauya was out of town.

Nevertheless, the team proceeded with the examination and found that the court's accountable forms and financial records were in the custody of Ms. Alejandrea L. Guro (Ms. Guro), while the court collections were allegedly in the possession of Mr. Alauya. Verification of relevant documents disclosed that the collections, with a total amount of One Hundred Four Thousand Eight Hundred Fifty-Two Pesos (P104,852.00), covering the period from 23

January 2013 to 15 August 2013 were unremitted as of the cash count date.

The team checked the office drawer of Mr. Alauya, in the presence of Ms. Guro and Mr. Ibrahim M. Umungan, Clerk IV, same court, to look for the aforesaid cash balances but these were nowhere to be found. Hence, the team charged the P104,852.00 as the initial cash shortage incurred in the cash count conducted.^[4]

On 3 September 2013, Mr. Alauya appeared in the office and presented to the team the deposit slips of his remittances to the JDF, SAJF and LRF, in the amount of One Thousand Eight Hundred Seventy-Four Pesos (P1,874.00), Two Thousand Nine Hundred Twenty-Six Pesos (P2,926.00) and Fifty-Two Pesos (P52.00), respectively, all dated 3 September 2013.

^[5] When Mr. Alauya was asked about the One Hundred Thousand Pesos (P100,000.00) unremitted Fiduciary Fund collection, he alleged that the amount was kept in their house as the court has no existing trust fund account with the Land Bank of the Philippines (LBP). Right away, the team directed Mr. Alauya to bring the P100,000.00, allegedly kept in his house, but the latter failed to return to the court to turn over the unremitted amount. His failure gave rise to the presumption of malversation of public funds.

The succeeding days of examination were conducted in the Halls of Justice (HOJ), Iligan City due to the volatile situation in Marawi City, in line with Office Memorandum dated 30 July 2013.^[6] On 5 September 2013, a staff from SDC, Marawi City called by telephone and informed the audit team that Mr. Alauya is in their office with the P100,000.00. Over the phone, the team leader instructed Mr. Alauya deposit the money in the City Treasurer's Office (CTO) or in the OCC, Regional Trial Court (RTC), Marawi City, considering that they do not have an existing account with the LBP and cannot instantly open an account without their judge, who was officially in RTC, Malabang, Lanao del Sur. Mr. Alauya refused to follow the instructions of the audit team because he claimed that he doesn't trust the aforesaid offices. He insisted on depositing the money only to the LBP. For this reason and for the immediate remittance of the P100,000.00, the team advised Hon. Rasad G. Balindong (Judge Balindong), Acting Presiding Judge, over the phone, to immediately relieve Mr. Alauya as financial custodian of the court and in his stead designate an Officer-in-Charge (OIC) who can properly and effectively manage the judiciary funds.

Accordingly, Judge Balindong designated Ms. Guro as financial custodian to handle the financial transactions of SDC, Marawi City, effective 6 September 2013.^[7] Along with the Office Order is a directive to Mr. Alauya to immediately turn-over all unremitted collections to Ms. Guro. Consequently, on 10 September 2013 Mr. Alauya turned-over the P100,000.00 to Ms. Guro, who subsequently deposited the same to the OCC, RTC, Marawi City, as evidenced by the Official Receipt^[8] issued by the said office.

II. Inventory of Used and Unused Official Receipts

Based on the list of Official Receipts (ORs) requisitioned from the Property Division, Office of the Administrative Services (OAS), OCA,^[9] the following ORs are unaccounted for and were not found in the office files, to wit:

- | | |
|--------------|------------------------------|
| a) 2344251 - | h) 2344601 - 2344607 |
| 2344300 | |
| b) 2344301 - | i) 2344651 - 2344654 |
| 2344350 | |
| c) 2344351 - | j) 2344776 - 2344800 |
| 2344400 | |
| d) 2344403 - | k) 166851 - 166858 |
| 2344450 | |
| e) 2344501 - | l) 2344734, 2344735, 2344739 |

2344550
 f) 2344551 - m) 18590902
 2344600
 g) 2344451 -
 2344486

The missing ORs, particularly 2344251-2344400; 2344501-2344600; and 2344651-2344654 were also included in Administrative Matter No. 02-4-03-SDC, previously filed against Mr. Alauya, where he was found guilty of gross neglect of duty in the custody of court property and was suspended for eighteen (18) months.^[10]

III. Filing Fees

In view of the unaccounted ORs and the possibility of its issuance in the collection of filing fees, the audit team conducted an examination of all available case records of the SDC, Marawi City. Accordingly, the team found discrepancies on some original ORs of filing fees and Legal Fees Forms (LFF) attached to the case records from 2003 to the present. The LFF data gathered were compared with the available triplicate and original copies of ORs. It was found out that several OR numbers were used in two (2) different transactions. It also disclosed that the LFF was falsified to make it appear that the filing fees were properly receipted. Mr. Alauya assigned receipt numbers in the LFF even without actual issuance of OR. As evidenced by the copy of ORs and LFF on file, Mr. Alauya received payments of filing fees for Civil Case Nos. 132-10, 140-10, 126-10, 136-10, 141-10, 162-11, 153-10, 169-11, 179-11, 185-11, 187-12 and 194-12. Instead of issuing ORs, he assigned spurious ORs in the LFF, using either an already issued or unissued OR. The schedules of payments are hereunder presented as evidence of the anomaly:

SCHEDULE 1 - Falsified LFF for Case No. 132-10^[11]

| OR# | Data per OR | | | | Falsified LFF - Case# spl 132-10 | | | |
|--------------|---------------|---------|------|-----------------|----------------------------------|---------|------|-----------------|
| | Payor | Date | Fund | Amount | Payor | Date | Fund | Amount |
| 18590696 | B. Amintao | 3.15.10 | SAJ | 1,600.00 | M. Marohom | 3.25.10 | SAJ | 1,432.00 |
| 18590697 | | | SAJ | 288.00 | | | SAJ | 144.00 |
| 18591059 | | | JDF | 112.00 | | | JDF | 568.00 |
| 18591060 | S. Abdulsamad | 3.8.10 | JDF | 624.00 | | | JDF | 56.00 |
| 0223732 | B. Pangcatan | 5.5.10 | LRF | 387.00 | | | LRF | 20.00 |
| TOTAL | | | | 3,011.00 | | | | 2,220.00 |

SCHEDULE 2- Falsified LFF for Case No. 140-10^[12]

| OR# | Data per OR | | | | Falsified LFF - Case# 140-10 | | | |
|--------------|-------------|---------|------|-----------------|------------------------------|--------|------|-----------------|
| | Payor | Date | Fund | Amount | Payor | Date | Fund | Amount |
| 18590703 | A. Sabra | 8.13.10 | SAJ | 1,432.00 | A. Malawani | 7.5.10 | SAJ | 1,432.00 |
| 18590704 | | | SAJ | 144.00 | | | SAJ | 144.00 |
| 18591066 | | | JDF | 568.00 | | | JDF | 568.00 |
| 18591067 | | | JDF | 56.00 | | | JDF | 56.00 |
| 0223734 | I. Ansano | 6.24.10 | LRF | 20.00 | | | LRF | 20.00 |
| TOTAL | | | | 2,220.00 | | | | 2,210.00 |

SCHEDULE 3- Falsified LFF for Case No. 126-10^[13]

| OR# | Data per OR - Case# spl | Falsified LFF - Case# spl 126-10 |
|-----|-------------------------|----------------------------------|
|-----|-------------------------|----------------------------------|

| | 128-10 | | | | | | | |
|----------|---------------|---------|------|----------|------------------|---------|------|----------|
| | Payor | Date | Fund | Amount | Payor | Date | Fund | Amount |
| 18590692 | M. Balenti | 2.24.10 | SAJ | 1,432.00 | D. Tambilawan | 1.13.10 | SAJ | 1,432.00 |
| 18590693 | | | SAJ | 144.00 | | | SAJ | 144.00 |
| 18591055 | | | JDF | 568.00 | | | JDF | 568.00 |
| 18591056 | | | JDF | 56.00 | | | JDF | 56.00 |
| 0223730 | I. Ansano | 6.24.10 | LRF | 20.00 | | | LRF | 20.00 |
| | | | STF | 1,000.00 | | | | |
| TOTAL | | | | 3,220.00 | | | | 2,220.00 |

SCHEDULE 4- Falsified LFF for Case No. 136-10^[14]

| OR# | Data per OR | | | | Falsified LFF - Case# spl 136-10 | | | |
|--------------|-------------|---------|------|-----------------|----------------------------------|---------|------|---------------|
| | Payor | Date | Fund | Amount | Payor | Date | Fund | Amount |
| 18590701 | I. Ansano | 6.24.10 | SAJ | 1,432.00 | A. Mandangan | 5.25.10 | SAJ | 332.00 |
| 18590702 | | | SAJ | 144.00 | | | SAJ | 144.00 |
| 18591064 | | | JDF | 568.00 | | | | |
| 18591065 | | | JDF | 56.00 | | | JDF | 168.00 |
| 0223734 | | | LRF | 20.00 | | | LRF | 10.00 |
| 18591066 | A. Sabra | 8.13.10 | JDF | 568.00 | | | JDF | 56.00 |
| TOTAL | | | | 2,788.00 | | | | 710.00 |

SCHEDULE 5 - Falsified LFF for Case No. 141-10^[15]

| OR# | Data per OR - Case# spl 147-10 | | | | Falsified LFF - Case# spl 141-10 | | | |
|----------|-----------------------------------|---------|------|----------|-------------------------------------|--------|------|----------|
| | Payor | Date | Fund | Amount | Payor | Date | Fund | Amount |
| 18590705 | N. Bantuas | 8.20.10 | SAJ | 3,790.00 | A. Rahman | 7.6.10 | SAJ | 832.00 |
| 18590706 | | | SAJ | 144.00 | | | SAJ | 144.00 |
| 18591068 | | | JDF | 2,210.00 | | | JDF | 168.00 |
| 18591069 | | | JDF | 56.00 | | | JDF | 56.00 |
| 0223736 | | | LRF | 20.00 | | | LRF | 10.00 |
| TOTAL | | | | 6,220.00 | | | | 1,210.00 |

SCHEDULE 6- Falsified LFF for Case No. 162-11^[16]

| OR# | Data per OR - Case# spl 212-11 | | | | Falsified LFF - Case# spl 162-11 | | | |
|----------|-----------------------------------|--------|------|----------|-------------------------------------|---------|------|----------|
| | Payor | Date | Fund | Amount | Payor | Date | Fund | Amount |
| 18590719 | H. Amintao | 2.7.11 | SAJ | 1,432.00 | H. Usodan | 1.17.11 | SAJ | 1,432.00 |
| 18590720 | | | SAJ | 144.00 | | | SAJ | 144.00 |
| 18591082 | | | JDF | 568.00 | | | JDF | 568.00 |
| 18591083 | | | JDF | 56.00 | | | JDF | 56.00 |
| 0223743 | | | LRF | 20.00 | | | LRF | 10.00 |
| TOTAL | | | | 2,220.00 | | | | 2,220.00 |

SCHEDULE 7- Falsified LFF for Case No.153-10^[17]

| OR# | Data per OR - Case# spl 161-11 | | | | Falsified LFF - Case# spl 153-10 | | | |
|----------|--------------------------------|----------|------|--------|----------------------------------|---------|------|----------|
| | Payor | Date | Fund | Amount | Payor | Date | Fund | Amount |
| 18590711 | S. Balindong | 12.23.10 | SAJ | 332.00 | A. Bano | 10.4.10 | SAJ | 1,432.00 |
| 18590712 | | | SAJ | 144.00 | | | SAJ | 144.00 |

| | | | | | | |
|--------------|--|-----|-----------------|--|-----|-----------------|
| 18591074 | | JDF | 168.00 | | JDF | 568.00 |
| 18591075 | | JDF | 56.00 | | JDF | 56.00 |
| 0223739 | | LRF | 10.00 | | LRF | 20.00 |
| | | STF | 1,000.00 | | | |
| TOTAL | | | 1,710.00 | | | 2,220.00 |

SCHEDULE 8- Falsified LFF for Case No. 169-11^[18]

| OR# | Data per OR - Case# spl 171-11 | | | | Falsified LFF - Case# 169-11 | | | |
|----------|--------------------------------|---------|------|----------|------------------------------|--------|------|--------|
| | Payor | Date | Fund | Amount | Payor | Date | Fund | Amount |
| 18590729 | T. Mutaba | 5.11.11 | SAJ | 1,432.00 | A. Mama | 5.9.11 | SAJ | 332.00 |
| 18590730 | | | SAJ | 144.00 | | | SAJ | 144.00 |
| 18591092 | | | JDF | 568.00 | | | JDF | 168.00 |
| 18591093 | | | JDF | 56.00 | | | JDF | 56.00 |
| 0223748 | | | LRF | 20.00 | | | LRF | 10.00 |
| TOTAL | | | | 2,220.00 | | | | 710.00 |

SCHEDULE 9- Falsified LFF for Case No.179-11^[19]

| OR# | Data per OR - Case# spl 216-11 | | | | Falsified LFF - Case# 179-11 | | | |
|--------------|--------------------------------|---------|------|-----------------|------------------------------|---------|------|-----------------|
| | Payor | Date | Fund | Amount | Payor | Date | Fund | Amount |
| 18590733 | N. Basir | 7.11.11 | SAJ | 1,298.00 | | | SAJ | 1,432.00 |
| 18590734 | | | | | | | SAJ | 144.00 |
| 18591096 | N. Basir | 7.11.11 | JDF | 1,210.00 | M. Salic | 6.17.11 | JDF | 568.00 |
| 18591097 | | | | | | | JDF | 56.00 |
| 0223740 | | | | | | | LRF | 20.00 |
| 0223750 | N. Basir | 7.11.11 | LRF | 25.00 | | | | |
| TOTAL | | | | 2,533.00 | | | | 2,220.00 |

SCHEDULE 10 - Falsified LFF for Case No. 185-11^[20]

| OR# | Data per OR | | | | Falsified LFF - Case# spl 185-11 | | | |
|--------------|-------------|----------|------|------------------|----------------------------------|----------|------|-----------------|
| | Payor | Date | Fund | Amount | Payor | Date | Fund | Amount |
| 18590738 | D. Baute | 12.28.11 | SAJ | 61,217.30 | A. Datudacula | 12.27.11 | SAJ | 144.00 |
| 18590739 | V. Macabago | 3.5.12 | SAJ | 24,998.00 | | | SAJ | 832.00 |
| 18591099 | | | JDF | 168.00 | | | JDF | 168.00 |
| 18591100 | | | JDF | 56.00 | | | JDF | 56.00 |
| 0255002 | M. Farida | 11.1.11 | LRF | 20.00 | | | LRF | 20.00 |
| TOTAL | | | | 86,459.30 | | | | 1,220.00 |

SCHEDULE 11- Falsified LFF for Case No. 187-12^[21]

| OR# | Data per OR | | | | Falsified LFF - Case# spl 187-12 | | | |
|----------|-------------|---------|------|--------|----------------------------------|---------|------|----------|
| | Payor | Date | Fund | Amount | Payor | Date | Fund | Amount |
| 18590741 | O. Maunda | 5.30.12 | SAJ | 332.00 | H. Musa | 4.18.12 | SAJ | 1,600.00 |
| 18590742 | | | SAJ | 144.00 | | | SAJ | 144.00 |
| 18591105 | | | JDF | 168.00 | | | JDF | 56.00 |