

EN BANC

[A.M. No. P-11-2965 [Formerly OCA I.P.I. No. 08-3029-P], July 31, 2012]

COMMISSION ON AUDIT, REPRESENTED BY ATTY. FRANCISCO R. VELASCO, COMPLAINANT, VS. ARLENE B. ASETRE, CLERK OF COURT, MUNICIPAL TRIAL COURT, OCAMPO, CAMARINES SUR, RESPONDENT.

A.M. No. P-10-2752 [Formerly A.M. No. 09-1 0-173-MTCJ]

RE: FINANCIAL AUDIT CONDUCTED IN THE MUNICIPAL TRIAL COURT, OCAMPO, CAMARINES SUR.

D E C I S I O N

PER CURIAM:

For our resolution are two consolidated cases, namely, (1) Administrative Complaint, docketed as A.M. No. P-11-2965 (OCA I.P.J. No. 08-3029-P), filed by the Commission on Audit (COA), represented by Atty. Francisco R. Velasco against respondent Arlene B. Asetre, Clerk of Court, Municipal Trial Court, Ocampo, Camarines Sur, for malversation of public funds; and (2) Administrative Complaint, docketed as A.M. No. P-10-2752 (OCA I.P.I. No. 09-10-173-MTC) against the same respondent.

**A.M. No. P-11-2965 (formerly A.M. OCA I.P.I. No. 08-3029-P)
*Commission on Audit, represented by Atty. Francisco R. Velasco v. Arlene B. Asetre, Clerk of Court, Municipal Trial Court, Ocampo, Camarines Sur.***

In an Indorsement dated December 3, 2008, the Office of the Deputy Ombudsman for Luzon referred to the Office of the Court Administrator (OCA) for appropriate action the complete records of CPL-L-08-2120 entitled "*COA v. Arlene B. Asetre*" relative to the charges of Malversation of Public Funds, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service against Arlene B. Asetre, Clerk of Court, Municipal Trial Court (MTC), Ocampo, Camarines Sur. The charges originated from the findings of the Audit Team of the Commission on Audit that respondent Asetre incurred cash shortage of One Hundred Fifty Thousand and Four Pesos (P150,004.00), representing unremitted cash collections from December 8, 2003 to November 13, 2009, to the prejudice of the government.

The shortage was accounted for as follows:

Beginning Balance as of December 8, 2003		P 2,006.00
Add: Undep. Collections, Dec. 8, 2003 to Nov. 6, 2009		
Fiduciary Fund	P89,000.00	
JDF	20,972.90	
GF/SAJ	27,842.10	
VCF	60.00	
MF	10,500.00	
		<u>148,375.00</u>

Total	P 150,381.00
Less: Cash counted	<u>377.00</u>
Total Shortage	P 150,004.00^[1]

The COA report alleged that respondent did not remit/deposit her collections on time to the authorized depository bank, which resulted to the accumulation of the cash in her custody and that she even admitted that she utilized the collections for personal use. The delays incurred in remitting such collections ranged from one (1) day to 866 days.

On January 8, 2009, the OCA directed respondent to comment on the complaint against her.

Respondent admitted that she misappropriated the money for her personal gain due to her financial problems and begged the indulgence of the Court to allow her to restitute the shortages. She likewise pleaded for compassion and clemency, and in the alternative, she be allowed to retire with full benefits to be able to pay all her financial obligations.

In a Memorandum^[2] dated October 14, 2009, the OCA recommended that the resolution of the instant case be held in abeyance pending the outcome of the financial audit conducted by the Court Management Office of the OCA (CMO-OCA) in the MTC, Ocampo, Camarines Sur.

In a Resolution^[3] dated December 7, 2009, the Court resolved to hold in abeyance the resolution of the administrative case against respondent pending the outcome of the financial audit conducted in the MTC, Ocampo, Camarines Sur by the Fiscal Monitoring Division.

A.M. No. P-10-2752 (formerly A.M. No. 09-10-173-MTC) Re: *Financial Audit Conducted in the Municipal Trial Court, Ocampo, Camarines Sur.*

Prompted by the audit findings made by the COA which showed shortages in the accountabilities of respondent Asetre, the CMO-OCA conducted a financial audit of the financial accounts of the MTC, Ocampo, Camarines Sur covering the accountability period of Clerk of Court Mrs. Arlene B. Asetre, from March 1, 2004 to July 16, 2009. While the COA examination covered only the period December 8, 2003 to November 13, 2006 and the CMO Audit Team covered the period March 1, 2004 to July 16, 2009, it appeared that the shortages for the period covered by the COA team on all funds were almost the same as that found by the Audit Team of the CMO.

Based on the available documents, the audit report yielded the following results:

1. SUMMARY OF COLLECTIONS AND DEPOSITS AND ACCOUNTABILITIES ON JUDICIARY DEVELOPMENT FUND (JDF) FOR THE PERIOD COVERED MARCH 1, 2004 TO JULY 16, 2009

<u>Month/Year</u>	<u>Collections</u>	<u>Deposits</u>	<u>Over)/Under Remittance</u>
Jan.-Dec. 2004	P 20,982.60	P 17,640.00	P 3,342.60
Jan.-Dec. 2005	P 16, 977.80	P 2,526.00	P 14,451.80
Jan.-Dec. 2006	P 7,885.10	P 3,121.00	P 4,764.10
Jan.-Dec. 2007	P 25,544.60	P 4,377.00	P 21,167.60
Jan.-Dec. 2008	P 9,365.60	P 0.00	P 9,365.60
Jan.-July 16, 2009	<u>P 7,633.60</u>	<u>P 0.00</u>	<u>P 7,633.60</u>
Total	P 88,389.30	P 0.00	P 60,725.30

2. SUMMARY OF COLLECTIONS AND DEPOSITS AND ACCOUNTABILITIES ON SPECIAL ALLOWANCE FOR THE JUDICIARY FUND (SAJF) FOR THE PERIOD COVERED MARCH 1, 2004 TO JULY 16, 2009

<u>Month/Year</u>	<u>Collections</u>	<u>Deposits</u>	<u>Over)/Under Remittance</u>
Jan.-Dec. 2004	P 4,652.40	P 3,227.20	P 1,425.20
Jan.-Dec. 2005	P 21,659.40	P 1,687.60	P 19,971.80
Jan.-Dec. 2006	P 11,514.90	P 4,044.00	P 7,470.90
Jan.-Dec. 2007	P 44,895.20	P 4,500.00	P 40,395.20
Jan.-Dec. 2008	P 12,364.40	P 0.00	P 12,364.40
Jan.-July. 16, 2009	<u>P 9,971.00</u>	<u>P 0.00</u>	<u>P 9,971.00</u>
Total	P105,057.30	P 13,458.80	P 91,598.50

3. SUMMARY OF COLLECTIONS AND DEPOSITS AND ACCOUNTABILITIES ON MEDIATION FUND (MF) FOR THE PERIOD COVERED JULY 2005 TO JULY 16, 2009

<u>Month/Year</u>	<u>Collections</u>	<u>Deposits</u>	<u>Over)/Under Remittance</u>
Jan.-Dec. 2005	P 8,500.00	P 0.00	P 8,500.00
Jan.-Dec. 2006	P 2,000.00	P 0.00	P 2,000.00
Jan.-Dec. 2007	P 4,000.00	P 0.00	P 4,000.00
Jan.-Dec. 2008	P 2,000.00	P 0.00	P 2,000.00
Jan.-July. 16, 2009	<u>P 3,000.00</u>	<u>P 0.00</u>	<u>P 3,000.00</u>
Total	P 19,500.00	P 0.00	P 19,500.00

4. SUMMARY OF COLLECTIONS AND DEPOSITS AND ACCOUNTABILITIES ON VICTIM'S COMPENSATION FUND (VCF) FOR THE PERIOD COVERED MARCH 1, 2007 TO JULY 16, 2009

<u>Month/Year</u>	<u>Collections</u>	<u>Deposits</u>	<u>Over)/Under Remittance</u>
Jan.-Dec. 2007	P 75.00	P 0.00	P 75.00
Jan.-Dec. 2008	P 5.00	P 0.00	P 5.00
Jan.-July. 16, 2009	P 15.00	P 0.00	P 15.00
Total	P 95.00	P 0.00	P 95.00

5. SUMMARY OF COLLECTIONS/DEPOSITS AND WITHDRAWALS ACCOUNTABILITIES ON FIDUCIARY FUND (FF) FOR THE PERIOD COVERED MARCH 1, 2004 TO JULY 16, 2009

Unwithdrawn Fiduciary Fund, Beginning	P 47,800.00
Add: Total Collections for the period March 2004 to July 16, 2009	<u>286,500.00</u>
Total	P 334,300.00
Less: Total Withdrawals for the period March 2004 to July 16, 2009	<u>P 281,500.00</u>
Unwithdrawn Fiduciary Fund as of July 16, 2009	<u>P 52,800.00</u>
Unwithdrawn Fiduciary Fund as of July 16, 2009	P 52,800.00
Add: Unwithdrawn Interest (net of withholding tax)	1,161.43
Bank Balance, July 16, 2009 (LBP SA No. 0041-1282-67)	<u>0.00</u>
Balance of Accountability/Shortage	P 53,961.43^[4]

Below are the comparative findings of the COA and the undersigned Audit Team from the Fiscal Monitoring Division (FMD) which showed similarities:

Fund Name	Period Covered	Collections		Deposits		Shortages	
		Per COA	Per FMD	Per COA	Per FMD	Per COA	Per FMD
JDF	3/1/04-12/31/04	20,982.60	20,982.60	17,260.00	17,640.00	3,722.60	3,342.60
	1/1/05-12/31/05	16,977.80	16,977.80	2,526.00	2,526.00	14,451.80	14,451.80
	1/1/06-11/13/06	7,577.50	7,577.50	3,121.00	3,121.00	4,456.50	4,456.50
SAJF	3/1/04-12/31/04	4,652.40	4,652.40	2,546.00	2,546.00	2,106.40	2,106.40
	1/1/05-12/31/05	21,669.00	21,669.00	1,687.60	1,687.60	19,981.40	19,981.40
	1/1/06-11/13/06	11,022.50	11,022.50	4,044.00	4,044.00	6,978.50	6,978.50
MF	7/1/05-12/31/05	8,500.00	8,500.00	0	0	8,500.00	8,500.00
	1/1/06-11/13/06	2,000.00	2,000.00	0	0	2,000.00	2,000.00
TOTAL		93,381.80	93,381.80	31,184.60	31,564.60	62,197.20	62,817.20^[5]

The FMD Audit Team discovered that respondent incurred shortages on all legal fees collections of the court. Beginning March 2004 to December 2006, remittances/deposits were not remitted in full which resulted to the shortages uncovered. Respondent's transgressions became very obvious when she failed to remit all her collections from January 2008 to July 2009. Below is the summary of her accountabilities.

FUND	JDF	CASH SHORTAGE
PERIOD COVERED	March 1, 2004 to July 16, 2009	
COLLECTIONS	88,389.30	
DEPOSITS	(27,664.00)	
SHORTAGE	60,725.30	
CASH ON HAND PRESENTED DURING OUR CASH COUNT	(4,648.25)	
FINAL SHORTAGE (OVERAGE)	56,077.05	56,077.05
DATE DEPOSITED	UNSETTLED TO DATE	
DEPOSITORY AGENCY	LBP-JDF Acct. No. 0591-0116-34	

FUND	SAJF	CASH SHORTAGE
PERIOD COVERED	March 1, 2004 to July 16, 2009	
COLLECTIONS	105,057.30	
DEPOSITS	(13,458.80)	
SHORTAGE (OVERAGE)	91,598.50	91,598.50
DATE DEPOSITED	UNSETTLED TO DATE	
DEPOSITORY AGENCY	LBP-SAJF Acct. No. 0591-1744-28	

FUND	MF	CASH SHORTAGE
PERIOD COVERED	July 2005 to July 16, 2009	
COLLECTIONS	19,500.00	
DEPOSITS	0.00	
SHORTAGE (OVERAGE)	19,500.00	19,500.00
DATE DEPOSITED	UNSETTLED TO DATE	
DEPOSITORY AGENCY	LBP-PMCF Acct. No. 3472-1000-28	

FUND	VCF	CASH SHORTAGE
PERIOD COVERED	March 2007 to July 16, 2009	
COLLECTIONS	95.00	
DEPOSITS	0.00	
SHORTAGE (OVERAGE)	95.00	95.00
DATE DEPOSITED	UNSETTLED TO DATE	
DEPOSITORY AGENCY	LBP-VCF Acct. No. 0592-1022-42	

FUND	FF	CASH SHORTAGE
PERIOD COVERED	March 1, 2004 to July 16, 2009	
BEGINNING BALANCE	47,800.00	
COLLECTIONS	286,500.00	
WITHDRAWALS	(281,500.00)	
UNWITHDRAWN BALANCE	52,800.00	
LBP SA No. 0041-1282-67	0.00	
NET INTEREST PREVIOUSLY EARNED	1,161.43	
SHORTAGE	53,961.43	53,961.43
DATE DEPOSITED	UNSETTLED TO DATE	

TOTAL CASH SHORTAGES	221,231.98^[6]
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