

EN BANC

[A.M. No. P-12-3086 (Formerly A.M. No. 11-7-75-MCTC), September 18, 2012]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
SUSANA R. FONTANILLA, CLERK OF COURT, MUNICIPAL CIRCUIT
TRIAL COURT, SAN NARCISO-BUENAVISTA, SAN NARCISO,
QUEZON, RESPONDENT.**

RESOLUTION

MENDOZA, J.:

This administrative matter stemmed from the financial audit report,^[1] dated November 22, 2011, conducted by the Court Management Office, Office of the Court Administrator (CMO-OCA), on the books of accounts of Susana R. Fontanilla (*Fontanilla*), Clerk of Court, Municipal Circuit Trial Court, San Narciso-Buenavista, San Narciso, Quezon (*MCTC*).

On January 26, 2009, the OCA requested for authority from the Court to withhold Fontanilla's salaries for her continuous failure to submit the required monthly reports of collections, deposits and withdrawals for the Judiciary Development Fund (*JDF*), Special Allowance for the Judiciary Fund and Fiduciary Fund. The request was approved on January 27, 2009. ^[2]

In her Letter,^[3] Fontanilla admitted that she used some of her collections for her personal needs because of financial difficulties. She explained that, as she was the bread winner of the family, she used the money for the family's sustenance, education of her children and medical expenses of her husband and parent.

In another Letter, ^[4] dated December 17, 2010, Fontanilla informed the OCA that she had submitted the required monthly reports and deposited all the cash balances on hand and attached the validated deposit slips as proof thereof. In the same letter, Fontanilla requested the release of her withheld salaries.

Upon recommendation of the OCA, the Court, in its Resolution,^[5] dated July 19, 2011, ordered the release of the salaries of Fontanilla beginning April 2011 and authorized the Fiscal Monitoring Division, CMO-OCA, to conduct a financial audit on the books of accounts covering the period from October 1984 to September 8, 2011. Subsequently, Fontanilla was relieved as Clerk of Court and Ericson E. Musa (Musa), Court Stenographer I, was designated as Officer-in-Charge.

Based on the audit conducted, Fontanilla's collections were all accounted for in the Court's financial records. It was, however, revealed that there were unauthorized withdrawals amounting to P28,000.00, resulting in a cash shortage in the Fiduciary Fund. The amounts and dates of the withdrawals were: P4,000.00 on March 8,

2006, P12,000.00 on December 11, 2006, and another P12,000.00 on January 23, 2008. On October 20, 2011, Fontanilla restituted the said amounts.

The audit team noted that although no cash shortage was found in the other judiciary funds, Fontanilla delayed the remittances of collections which deprived the Court of the interests that would have accrued had the collections been deposited on time.

During the audit, it was also discovered that, as of August 31, 2011, the MCTC had Fiduciary Fund deposits with the Municipal Treasurer's Office, San Narciso, Quezon, in the amount of P141,500.00, which should have been withdrawn and deposited in the Land Bank of the Philippines (*LBP*), Mulanay, Quezon Branch, the Court's authorized depository bank.

The audit team likewise found out that the MCTC was not collecting the Process Server's Fee and the Mediation Fee as required under Section 9 of the Amended Administrative Circular No. 35-2004. The audit team, thus, advised Musa to collect the process server's fee and disburse the same in accordance with the aforementioned circular; and to collect the mediation fee, remit it to its corresponding account, and prepare the monthly reports relative thereto.

In its Memorandum,^[6] dated July 25, 2012, the OCA adopted the recommendation of the audit team, as follows:

- 1) This report be DOCKETED as a regular administrative matter against Ms. Susana R. Fontanilla, Clerk of Court, Municipal Circuit Trial Court, San Narciso-Buenavista, Quezon;
- 2) A FINE of P10,000.00 be IMPOSED upon Ms. Fontanilla for not depositing her collections and not submitting the required Monthly Reports of Collections, Deposits and Withdrawals within the prescribed period;
- 3) The Finance Division, FMO, OCA, be DIRECTED to RELEASE the withheld salaries of Ms. Susana R. Fontanilla and to DEDUCT therefrom the FINE of P10,000.00 and the amount of P52,799.87 representing interests that could have been earned had the collections [been] deposited within the prescribed period;
- 4) The Cash Division, FMO, OCA, be DIRECTED to DEPOSIT amounts of P10,000.00 and P52,799.87 referred to in no. 3 above, to the accounts of the Special Allowance for the Judiciary Fund and Judiciary Development Fund, respectively, and FURNISH the Fiscal Monitoring Division, CMO, OCA, with copies of machine-validated deposits slips as proof of compliance thereof;
- 5) Incumbent Officer-in-Charge Mr. Ericson E. Musa be DIRECTED to:
 - a. WITHDRAW the fiduciary fund deposits of P141,500.00 [from] the Municipal Treasurer's Office (MTO), San Narciso, Quezon and TRANSFER the amount to the fiduciary fund account with the Land Bank of the Philippines pursuant to Circular No. 50-95; and

- b. FURNISH the Fiscal Monitoring Division, CMO, OCA, with the copy of the machine-validated deposit slip/certified true copy of passbook as proof of remittance of the amount of ₱141,500.00 transferred from MTO;
- 6) Hon. Walter Inocencio V. Arreza, Acting Presiding Judge, MCTC, San Narciso-Buenavista, Quezon, be DIRECTED to STRICTLY MONITOR the incumbent Officer-in-Charge relative to the compliance with the circulars and issuances of the Court particularly in the handling of judiciary funds, otherwise, he shall be held equally liable for the infraction committed by the employee under his command/supervision.

The Court finds the recommendation of the OCA to be well-taken except as to the amount of the fine.

SC Circular No. 13-92 mandates that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. Section 3, in relation to Section 5 of SC Circular No. 5-93, specifically designates the LBP as the authorized government depository of the JDF. It reads:

3. Duty of the Clerks of Court, Officers-in-Charge or accountable officers. – The Clerks of Court, Officers-in-Charge, or their accountable duly authorized representatives designated by them in writing, who must be accountable officers, shall receive the Judiciary Development Fund collections, issue the proper receipt therefore, maintain a separate cash book properly marked x x x deposit such collections in the manner herein prescribed and render the proper Monthly Report of Collections for said Fund.

4. x x x x

5. Systems and Procedures:

x x x x

- c. In the RTC, SDC, MeTC, MTCC, MTC, and SCC. – The daily collections for the Fund in these courts shall be deposited every day with the local or nearest LBP branch For the account of the Judiciary Development Fund, Supreme Court, Manila – Savings Account No. 159-01163; or if depositing daily is not possible, deposits of the Fund shall be every second and third Fridays and at the end of every month, provided, however, that whenever collections for the Fund reach P500.00, the same shall be deposited immediately even before the days before indicated.

Where there is no LBP branch at the station of the judge concerned, the collections shall be sent by postal money order payable to the Chief Accountant of the Supreme Court at the