

## EN BANC

[ A.M. No. P-05-2082 (FORMERLY A.M. NO. 05-8-534-RTC),  
November 29, 2011 ]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. CLERK OF COURT  
HERMENEGILDO I. MARASIGAN, REGIONAL TRIAL COURT, KABACAN, NORTH  
COTABATO, RESPONDENT.

### DECISION

#### PER CURIAM:

We resolve the present administrative complaint brought by the Office of the Court Administrator (OCA) against Clerk of Court Hermenegildo I. Marasigan (*respondent*) of the Regional Trial Court (RTC), Kabacan, North Cotabato.

#### The Antecedents

The facts are laid out in the OCA memorandum dated October 7, 2008<sup>[1]</sup> and are summarized below.

From June 7 to 16, 2004, an OCA audit team, headed by Management and Audit Analyst IV Monroe Curioso, conducted a financial audit on the RTC, Kabacan, North Cotabato. The audit covered the accountabilities of former Clerk of Court-in-Charge Barbara Espinosa, for the period of September 1991 to March 1993, and of the respondent, from April 1993 to May 2004.

The audit team discovered that the cash count for June 7, 2004 fell short of P660.80. It attributed this anomaly to the respondent's practice of depositing his collections on a monthly, instead of a daily, basis. Also, the team found a big number of missing documents which were vital in the completion of the audit. These documents consisted of official receipts (recorded and not recorded in the cashbook), cancelled official receipts without the original copies, deposit slips, deposit slips without machine validation, and Fiduciary Fund (FF) withdrawals and passbooks.

Because of the non-availability of the FF passbooks, the audit team failed to determine the interests earned on the FF deposits which should have been remitted to the Judiciary Development Fund (JDF).

At the conclusion of its work, the audit team submitted to the OCA a Final Report.<sup>[2]</sup> The OCA, in a memorandum dated August 15, 2005,<sup>[3]</sup> presented the salient features of the report to then Chief Justice Hilario G. Davide, Jr.

Acting on the report, the Court's Third Division issued a Resolution on October 5, 2005,<sup>[4]</sup> as follows:

1. to **RE-DOCKET** the report of the team as a regular administrative complaint against Clerk of Court Hermenegildo I. Marasigan.
2. to **DIRECT** Clerk of Court Hermenegildo I. Marasigan:
  - a. a. to **EXPLAIN** within ten (10) days from notice hereof:
    - a.1. the P660.80 shortage in his collection during the cash count;
    - a.2. his failure to deposit his collections daily despite the fact that the LBP, Kabacan Branch is only about 25 meters away from the court;
    - a.3. his failure to maintain a cashbook for the Fiduciary Fund;

a.4. his failure to present the detached original copies of official receipts with serial numbers 17631048-17631050 while leaving in the booklet the corresponding duplicate and triplicate copies unmarked; and

a.5. his failure to comply with the directives in the memorandum of the Court Administrator dated November 9, 2004.

b. to **ACCOUNT** for the interest earned on deposits of Fiduciary Fund from April 1993 to May 2004 and to **PAY** by depositing the same to the Judiciary Development Fund Account of the Court and to **SUBMIT** the machine validated deposit slip to the Fiscal Monitoring Division, Court Management Office;

c. to **EXPLAIN** his failure to produce the following documents and submit the same to the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator, both within ten (10) days from notice, to wit:

c.1. the Missing Official Receipts (ORs) that were not reported in the cashbook, as follows:

OR NUMBER

8786851-8786854	4006951-4006952
8786886-8786888	4007029-4007037
8786899-8786900	4007051-4007100
2871226	4007118-4007150
2871501-2871504	4007251-4007300
2871510-2871539	5374951-5375000
2871611-2871614	18799433
2871851-2871900	18799501-18799541
4006501-4006550	18800460-18800472
4006901-4006908	17631048-17631050

c.2. the missing official receipts (ORs) but were recorded in the cashbook, viz:

OR NUMBER	OR NUMBER
2871151-2871450	4007601-4008000
2871505-2871509	5374001-5374050
2871540-2871600	5374101-5374700
2871601-2871610	5374751-5374900
2871753-2871850	6528601
2871951-2872000	6555601-6556000
4006551-4006650	9294501
4006701-4006750	8786855-8786885
4006851-4006900	8786889-8786898
4006909-4006950	8786901-8786950
4006967-4007028	2871451-2871500
4007038-4007050	2871901-2871950
4007101-4007117	4006801-4006850
4007151-4007200	4007351-4007400
4007301-4007350	4007551-4007600
4007401-4007550	5374901-5374950

c.3. the original copies of the following cancelled official receipts or proofs that the same were submitted to the Accounting Division-OCA or to the Commission on Audit:

OR NUMBER	DATE ISSUED	OR NUMBER	DATE ISSUED
6674695	Dec. 1997	9828238	Oct. 1998

6674555	Feb. 1998	9828402	Nov. 1998
9294951	Apr. 1998	9828407	Nov. 1998
9828903	Oct. 1998	9828455	Dec. 1998
9828951	Nov. 1998	9828474	Dec. 1998
9828955	Nov. 1998	9828611	Jan. 1999
9828802	Jan. 1999	12385446	May 2000
9828839	Mar. 1999	13594549	Dec. 2000
14458975	May 2001	13594840	Mar. 2001
14459140	Aug. 2001	15324652	Feb. 2002
15324953	Jan. 2002	16604672	Oct. 2002
15324978	Feb. 2002	16604759	Nov. 2002
16605035	Dec. 2002	16604778	Nov. 2002
17630938	Mar. 2003	16604798	Nov. 2002
17630960	Apr. 2003	16605110- 16605112	Dec. 2002
17631007	Jun. 2003	16605159	Dec. 2002
18799252	Sept. 2003	17630263	Jan. 2003
18799311	Nov. 2003	17630370	Feb. 2003
18799341	Dec. 2003	17630434	Mar. 2003
18799342	Dec. 2003	17630589	Apr. 2003
6555567	Jul. 1997	17630767	Jun. 2003
6555581	Dec. 1997	17630883	Jun. 2003
9828698	Apr. 2001	18799549	Jul. 2003
4006594	Jul. 1994	18799550	Jul. 2003
5374360	Feb. 1996	18799731	Sept. 2003
6528279	Jul. 1996	18799750	Oct. 2003
6528700	Jan. 1997	18799876	Nov. 2003
6528768	Feb. 1997	18800011	Dec. 2003
6674307	Jan. 1998	18800280	Mar. 2004
9294483	May 1998		

c.4. the missing documents of Fiduciary Fund withdrawals, to wit:

Date Withdrawn	Court OR No.	Case No.	Name of Litigant(s)	Amount Withdrawn	Missing Documents Court Order (CO), Acknowledgement Receipt (AR)
1/7/1994		56	Estolas	P 1,218.00	CO,AR
6/9/1995	2998378	918	Loreto Juson	10,000.00	CO
6/16/1995	4007202	02	Eliseo Gabano	15,000.00	CO,AR
10/10/1995	4007213	46	Nelia Catalan	8,000.00	CO
6/18/1996	4007237	57	Cancelled	7,000.00	CO,AR
9/18/1996	4007226	27,059-F-95	Consuelo Daez	1,000.00	CO
9/18/1996	4007231	27-098-E-95	Consuelo Daez	1,000.00	CO
2/26/1997	4007224	27,448-A-95	Fatima Flauta	1,000.00	CO
7/15/1997	4007204	982	Imelda Laña	2,000.00	AR
10/3/97	6674968	2591	Hermenigildo I. Marasigan	24,000.00	CO,AR
10/3/97	6674969	2591	Hilda Gura	24,000.00	CO,AR
2/11/99	6674997	428	Dorena Lacarama-Canlog	2,000.00	AR
3/9/99		Election Case	Bonifacio Tejada	10,960.00	CO,AR

3/10/99		Election Case	Bonifacio Tejada	3,000.00	CO,AR
10/26/00	-	98-01 to 02	Bonifacio Tejada	38,000.00	CO,AR
10/26/00	-	98-01 to 02	Bonifacio Tejada	7,760.00	CO,AR
11/7/00	10650678	00-32	Quirico Cano	10,000.00	CO
12/29/00	10650677	5330	Merlita M. Garcia	6,000.00	AR
2/7/02	6674994	37048-37111	Yolanda Bel	10,000.00	AR
6/24/02	14459157	103-262-G-2001	Shellane Sampiton	5,000.00	AR
8/28/03	16605229	32806-1385 to 32810-1385	Cayetano Pomares	105,000.00	CO
10/14/03	10650660	43,212-99	Reynaldo Angel	3,000.00	AR
11/14/03	14459163	13,526-02 to 13,531-02	Marilou Arellano	12,000.00	CO
11/14/03	14459174	13,619-02 to 13,631-02	Gina J. Mutulani	26,000.00	CO
11/14/03	14459175	13,651-02 to 13,664-02	Dalisay J. Nayona	28,000.00	CO
11/14/03	14459193	13,874-02	Ramonita Nadela	10,000.00	CO
11/17/03	14459170	13581-02 to 13584-02	Janeth Fuentes	8,000.00	CO
3/5/04	18801151	5716	Judy Ann Lamban Vitudio	10,000.00	AR
3/22/04	4007245	4878	Gomesio Gatawan	20,000.00	AR
5/31/04	16605230	14,076-02	Ramuel Abellera	2,000.00	AR
TOTAL				P410,938.00 =====	

c.5. the details and supporting documents of the following Fiduciary Fund withdrawals from LBP Savings Account No. 2731-0018-15:

DATE	AMOUNT	DATE	AMOUNT
01/20/00	P 5,739.00	06/23/03	P 2,000.00
07/12/00	4,921.00	06/30/03	3,000.00
03/12/02	18,000.00		6,000.00
08/09/02	7,000.00	08/28/03	84,000.00
04/08/03	4,000.00	03/02/04	2,000.00
TOTAL			P 136,660.00
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c.6. the passbook for Fiduciary Fund (FF) account with PNB, Kidapawan City Branch with Savings Account No. 42112 (from 39933) from April 1993 up to the time of its closing.

c.7. the passbooks, bank statements or account ledgers for the following Fiduciary Fund (FF) accounts:

(a) LBP, Kidapawan City Branch with Savings Account No. 17402523-1 from January 1994 to January 31, 2000

(b) LBP, Kabacan Branch with Savings Account No. 2731-0018-15 from its opening to January 20, 2000;

c.8. an inventory list indicating the case number, name of litigant, OR number, amount, date of collection, date of court order, date of withdrawals of all confiscated and forfeited cash bonds from April 1993 to May 2004 and proofs that the same were remitted either to the GF or JDF.

c.9. court orders authorizing the withdrawal of the Sheriffs' Trust Fund with Civil Case No. 260 and Fiduciary Fund with Civil Case No. 56, amounting to P4,124.81 and P1,218.00, respectively, which were withdrawn from PNB Savings Account No. 41579 on January 7, 1994, and proofs of remittance to GF of the P45.31 interest earned relative thereto.

d. to **SECURE** confirmation from LBP for the missing deposit slips and unvalidated deposits:

· **Missing Deposit Slips**

Judiciary Development Fund (JDF)		General Fund (GF)		Sheriff's General Fund (SGF)	
Period of Collection	Amount	Period of Collection	Amount	Period of Collection	Amount
Dec.-93	P 308.00	Oct.-93	P 279.20	Jul.-94	P 44.00
Aug.-94	1,806.00	Feb.-94	31.40	Jan.-99	748.00
Nov.-94	2,543.00	Nov.-94	299.70	May-99	60.00
Dec.-94	1,029.50	Dec.-94	235.50	Sept.-02	36.00
Jan.-95	5,000.00	Jan.-95	1,930.00	Apr.-03	16.00
Feb.-96	98,510.36	Jul.-95	265.80	May-03	48.00
Jul.-96	3,900.00	Sept.-95	678.00	Jul.-03	44.00
Sept.-96	8,836.90	Feb.-96	65,730.90	Oct.-03	8.00
Oct.-96	3,981.90	Aug.-97	2,163.00	Nov.-03	44.00
Dec.-96	5,935.50	Nov.-97	3,297.30		
Jul.-97	5,813.10	May-99	527.10		
Apr.-98	29,317.00	Aug.-99	721.30		
Jul.-98	4,955.30	Nov.-99	1,219.00		
Sept.-98	8,034.50	Dec.-99	1,606.00		
Oct.-98	5,992.70	Sept.-02	8,168.57		
Nov.-98	22,653.60	Apr.-03	3,251.70		
May-99	10,371.86	May-03	5,849.20		
Jun.-99	4,411.80	Jul.-03	1,710.60		
Jul.-99	4,599.00	Aug.-03	215.20		
Oct.-99	6,695.00				
Nov.-99	4,342.50				
Dec.-99	4,907.00				
Nov.-01	11,689.96				
Total	P255,634.98		P98,179.47		P 1,048.00
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