

EN BANC

[A.M. No. P-05-1935 (Formerly A.M. No. 04-10-599-RTC), April 23, 2010]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ATTY. FERMIN M. OFILAS AND MS. ARANZAZU V. BALTAZAR,
CLERK OF COURT AND CLERK IV, RESPECTIVELY, REGIONAL
TRIAL COURT, SAN MATEO, RIZAL, RESPONDENTS.**

RESOLUTION

PER CURIAM:

This administrative matter stemmed from a financial audit conducted by the Office of the Court Administrator (OCA) on the books of accounts of the Office of the Clerk of Court, Regional Trial Court of San Mateo, Rizal. The audit, covering the period from January 1992 to March 4, 2004, bared irregularities in the handling of the financial transactions of the court and a considerable shortage in the financial accountabilities of Atty. Fermin M. Ofilas and Ms. Aranzazu V. Baltazar, then Clerk of Court and Clerk IV, respectively.

FACTUAL AND PROCEDURAL ANTECEDENTS

On September 30, 2004, the OCA Audit Team submitted its preliminary report thru a Memorandum^[1] to the then Court Administrator Presbitero J. Velasco Jr., the contents of which are summarized as follows:

- 1) Monitoring and inventory of cash collections is not properly administered.
- 2) The Clerk of Court, Atty. Fermin Ofilas, delegated the financial transactions of the court to his two subordinates, namely Clerk IV Aranzazu V. Baltazar, former cash clerk of Atty. Ofilas' predecessor; and Olga A. Sacramento, the incumbent cash clerk at the time of the audit who assumed office on May 2001.
- 3) Ms. Baltazar was in charge of all funds collected and paid to the court. She issued official receipts for all funds collected, prepared the monthly reports of collections, and made bank deposits and withdrawals for submission to the Accounting Division of the OCA. She was practically the custodian of all court financial records and books of accounts.
- 4) Although she was the then cash clerk, Ms. Sacramento merely assisted in the preparation of monthly reports and only issued official receipts in the absence of Ms. Baltazar.
- 5) The amount of unremitted cash collections in the possession of Ms. Baltazar did not tally with the amount collected for the respective

periods, resulting in an overage of P39,152.00 which was due to unaccounted/unremitted collections from past years.

- 6) Upon discovery of said retained cash, Atty. Ofilas voluntarily executed an affidavit, dated March 11, 2004.^[2] He stated that because Executive Judge Elizabeth Balquin-Reyes politely declined to be one of the signatories for the court's bank transactions until the issuance of her official designation, the office adopted the practice of retaining some amount of cash from the collections in order to answer for the refunds of cash bonds of litigants. Thereafter, he relieved Ms. Baltazar of her functions as collecting officer.
- 7) The court was not in possession of the triplicate copies of official receipts issued from January 1992 to December 1994 for the Judiciary Development (JDF), Clerk of Court General Fund (CCGF) and Sheriff's fees^[3];
- 8) Accountable forms such as triplicate copies, official receipts and official cashbooks were in disarray. Some were detached from their respective booklets. Cancelled/spoiled Official Receipts were not properly marked or identified and the original and duplicate copies of the cancelled or spoiled receipts were not attached to the triplicates.
- 9) The official cash books were not properly accomplished and contained illegible entries. Daily collections were not regularly entered therein contrary to AC Nos. 3-2000, 22-94 and 32-93.
- 10) There were discrepancies and irregularities in the financial transactions as shown in these computations below:

A) Judiciary Development Fund (JDF)

Total collections from	
Jan. 1992 to Mar. 5,	P28,498,525.19
2004	
Less:	
Deposits/Remittances for	
the same period	
Valid Deposits	P27,778,114.25
Deposits that require	
bank confirmation	<u>789,360.70</u> 28,567,474.95
Balance of Accountability	
(overage)	<u>(P68,949.76)</u>

B) Clerk of Court General Fund (CCGF)

Total collections from Jan.	
1992 to Dec. 31, 2003	P4,139,765.69
Less: Deposits/Remittances	
for the same period	
Valid Deposits	P3,544,914.50
Deposits that require	<u>595,314.57</u> 4,140,229.07

bank confirmation	
Balance of Accountability	(P463.38)
(overage)	

C) Sheriff Fees General Fund (SGF)

Total collections from Jan. 1992 to Dec. 31, 2003	P947,972.43
Less: Total remittances for the same period	939,048.18
Balance of Accountability (overage)	<u>(P8,924.25)</u>

D) Fiduciary Fund (FF)

Beginning Balance	P233,210.76
Total collections from Jan. 1/92 to 3/5/04	<u>14,152,975.35</u>
Total	<u>P14,386,186.11</u>
Less: Total withdrawals (properly documented) for the same period	<u>7,868,316.36</u>
Unwithdrawn Fiduciary Fund as of 3/5/04	<u>P6,517,869.75</u>
Balance per bank as of March 5, 2004	P4,253,224.77
Less: Unwithdrawn interest earned (net of withholding tax)	<u>280,784.05</u>
Adjusted bank balance as of March 5, 2004	<u>P3,972,476.72</u>

Unwithdrawn Fiduciary Fund as of 3/5/04	P6,517,869.75
Adjusted Bank Balance as of 3/5/04	<u>3,972,476.72</u>
Total undeposited collections as of 3/5/04	P2,545,393.03
Less: Deposits made under LBP CA No. 2722-1006 57 dated 3/9-04	224,317.80
Balance of Accountability (shortage)	<u>P2,321,075.23</u>

Balance of Accountability:	
Undocumented withdrawals	P1,182,330.00
Undeposited collections	1,119,145.23
Double Withdrawals	<u>19,600.00</u>
Total Accountability	<u>P2,321,075.23</u>

11) As to the JDF and CCG, the surplus of P68,949.76 and P463.38 were provisional because the audit team considered the amounts of P789,360.70 and P595,314.57 as valid deposits subject to confirmation.

Upon failure of Atty. Ofilas and Ms. Baltazar to secure bank confirmation on the validity of deposits, the amounts of P789,360.70 and P595,314.57 should form part of their accountabilities.

- 12) As to the Sheriff Fees-General Fund, a balance of accountability amounting to P8,924.25 was discovered. This was attributed to improper monitoring of collections, delayed remittances, wrong footings of totals in the cashbook, and undeposited prior years' collections.
- 13) With respect to the Sheriff's Trust Fund, collections commenced only in October 2000 when the Supreme Court, in a previous case filed by a litigant against Atty. Ofilas,^[4] ordered the transfer of redemption money relative to one extra-judicial foreclosure case. Atty. Ofilas was found to have deposited the amount of P3,444,070.00 in his personal account because he was allegedly unfamiliar with the Sheriff Trust Fund Account. Atty. Ofilas was reprimanded and sternly warned by the court.
- 14) The biggest amount of shortage at P2,231,075.23 was discovered in the Fiduciary Fund. This amount was inclusive of refunded cash bond without proper documentation amounting to P1,182,330. Granting that Atty. Ofilas could present proper documentation therefor, an enormous amount of shortage at P1,138,754.23 would still remain.
- 15) When asked to explain, Ms. Baltazar readily confessed her shortage and willingly executed an affidavit, dated April 5, 2004,^[5] wherein she admitted that she had committed grave negligence and malversation of funds when she allowed other court employees to borrow from the court funds in her custody, causing the shortage as discovered by the audit team.
- 16) There were cash bonds found to be withdrawn or refunded twice to party litigants amounting to P19,600.00^[6];
- 17) An aggregate total of P279,200.00 confiscated cash bond was disclosed.^[7] Cashbonds with order of confiscation since 1992 were not withdrawn and remitted to the National Treasury (up to November 1999) and to the Judiciary Development Fund (from November 1999).
- 18) Interest earned amounting to P280,748.05 from Fiduciary Fund deposits in both the Philippine National Bank and rural bank accounts from April 1992 to December 1998 remained unwithdrawn as of date of audit.
- 19) As of March 5, 2004, there were cash bonds collections deposited with the Municipal Treasurer's Office which were still unwithdrawn.
- 20) Marriage certificates on file disclosed unpaid marriage solemnization fees from 1993-1999. According to Atty. Ofilas, it was the presiding judge in Branch 77 of the RTC who was in charge of solemnizing marriage ceremonies.
- 21) With respect to records of extra-judicial foreclosure of mortgage, the audit team found it difficult to determine payment of the sheriff's commission because the Official Receipts issued in connection with the applications did not reflect the case numbers and, worse, the receipts

were not attached to the records. Out of 2,650 petitions filed as of March 5, 2004, only 2,491 case folders were presented for audit.

Certificates of sale have not been issued in four (4) cases.^[8] There were undated certificates issued in three (3) cases,^[9] making it impossible to verify if the sheriff's fees thereon were paid accordingly.

22) In three (3) cases,^[10] docket fees were collected based only on the principal amount of indebtedness.

23) Contrary to Administrative Circular 3-93, the docket fees were not collected at all in five (5) extra-judicial foreclosure cases.^[11]

In foreclosures conducted by a notary public, the docket fees paid in eleven (11) cases^[12] were allocated to the General Fund instead of the entire amount being deposited to the Judiciary Development Fund. Like in the foreclosures conducted by the sheriff, fees for three (3) cases^[13] were assessed based on the amount of the principal indebtedness. The collection of P300.00 as entry fee and P75.00 as advertising fee, as mandated by Administrative Circular 3-2000, were not consistently collected in the other cases.

All the records of extra-judicial foreclosures were not presented to the audit team. Out of the records presented, erroneous collections of foreclosure dues were discovered.

A separate bank account with the Rural Bank of San Mateo,^[14] under the name of "Clerk of Court of RTC San Mateo," with Atty. Ofilas as the lone signatory was revealed, purposely for all check payments received in foreclosure proceedings.

24) A significant number of check payments were converted to cash instead of being directly deposited to the Judicial Development Fund and the General Fund.

The same report bears the OCA recommendations that were eventually adopted by the Court in a Resolution^[15] dated January 10, 2005, ordering, among others,

(a) **DOCKET** the report as a regular administrative matter against Atty. Fermin M. Ofilas and Ms. Aranzazu V. Baltazar;

(b) **DIRECT** Atty. Fermin M. Ofilas to:

[1] **EXPLAIN** in writing within a period of ten (10) days from notice the following: (1.1) his failure to exercise close supervision over the financial transactions of the court; (1.2) his failure to monitor the activity of former Cash Clerk, Ms. Aranzazu Baltazar, relative to the proper handling of collections of legal fees of his court; (1.3) his failure to monitor the remittance of collections on time which resulted in an enormous amount of initial shortage amount to P1,147,670.28; (1.4) the opening of a separate account and lone signatory of SA No. 51-28216-7 Rural Bank, San Mateo, Rizal, intended for checks payment received from Extra