

EN BANC**[A.M. No. 08-1-30-MCTC, April 10, 2008]****RE: FINANCIAL REPORT ON THE AUDIT CONDUCTED IN THE MUNICIPAL CIRCUIT TRIAL COURT, APALIT-SAN SIMON, PAMPANGA****D E C I S I O N****PER CURIAM:**

Before us is an administrative case which arose from the Memorandum^[1] submitted to Deputy Court Administrator Jose P. Perez dated 29 November 2007 prepared by Irene R. Malonzo, team leader of the Office of the Court Administrator (OCA) Financial Audit Team, charging Maria Algabre Chico (respondent), Clerk of Court II, Municipal Circuit Trial Court (MCTC) of Apalit-San Simon, Pampanga of gross dishonesty.

On 9 to 13 December 2002, a Judicial Audit Team made an inventory of cases of Judge Valentino B. Nogoy, then Presiding Judge of MCTC Apalit-San Simon, Pampanga, who was due to retire from the service on 14 February 2003. In the course of the inventory of case exhibits, the Judicial Audit Team discovered that *jueteng moneys* seized for violation of Presidential Decree No. 1602 were deposited with the ASCOM Multi-Purpose Cooperative, Inc., San Juan, Apalit, Pampanga under Savings Account No. 6562 and in the name of the MCTC with Court Stenographer Ana Marie M. Male as the authorized signatory. In view of the discovery, the Judicial Audit Team recommended the conduct of a thorough financial audit of the books of accounts of respondent.^[2]

On 23 to 27 June 2003, a financial audit team (the first team) headed by Soledad R. Ho was directed to conduct the recommended audit. The first team's spot cash count revealed that the amount of P132,400.00 comprising the undeposited collection of the Fiduciary Fund was found in respondent's possession. At the time the Land Bank of the Philippines-San Fernando, Pampanga Branch (the Land Bank), the nearest depository bank, was fifteen (15) kilometers away from the MCTC. After the cash count, Ho requested respondent and Judge Roy Gironella, the acting presiding judge, to open a savings account for the fund with the Land Bank. The failure to maintain an account with the Land Bank is violative of Circular No. 50-95 which prescribes the guidelines on proper handling of Fiduciary Fund accounts.^[3]

Ho then prepared a draft report on the audit conducted but the same was not finalized and was submitted to the Court on account of respondent's failure to satisfy the requirements laid down by Ho.^[4] The report remained unattended to until Presiding Judge Teodora R. Gonzales of MCTC of Apalit-San Simon, Pampanga informed the Court in her Letter-request dated 3 November 2004 of her observations after an inventory of the trial court's dockets, *viz.*: (a) the discrepancy in the amount of money which should have been deposited in the court's account; (b) at least four (4) cases, reportedly dismissed and withdrawn, were still being tried in court; (c) no withdrawals had been made but there was failure to deposit the bonds and supersedeas bonds within twenty-four (24) hours as required is noticeable; and (d) despite instructions to deposit the missing amount and to make an accurate report of the fiduciary account at a given time, respondent failed to do so.^[5]

On 4 January 2007, Judge Gonzales issued a memorandum addressed to respondent directing her to explain her non-compliance with the court order for the transfer of the confiscated bonds from the Fiduciary Fund to Judiciary Development Fund (JDF) and to show proof, if any, that the orders given to her have been carried out. Judge Gonzales likewise stated that the following cash bonds were not deposited to the Fiduciary Fund:

Date of Order	Case Number/Title	Amount
08/11/04	03-13 to 03-14/PP vs. Josefina Alfonso	P1,000.00
01/19/05	02-129/PP vs. Albert dela Cruz	3,000.00
09/21/05	9308, 9310 to 9312/PP vs. Josephine Oida	8,000.00
10/19/05	02-152 to 02-153/PP vs. Carmelita Bicomong	10,000.00
12/20/05	01-583/PP vs. Claudio Sumang	2,000.00
	Total	24,000.00^[6]

In respondent's undated explanation, she admitted her failure to deposit the cash bonds and offered the excuse that she had used the collection to defray her family expenses. Along with the explanation was a certification dated 10 January 2007 signed by respondent to the effect that the confiscated cash bonds had been deposited to the JDF account.^[7]

On 11 January 2007, Judge Gonzales assigned Emalyn J. De Leon, Court Stenographer II, to monitor the fiduciary collections.^[8] Respondent, however, remained accountable for the issuance of all receipts (for SAJF, JDF, Mediation

Fund, LRF, STF & FF), collections, deposits, withdrawals, and disbursement of the Court's Fiduciary Fund.^[9]

On 2 February 2007, Ms. De Leon voluntarily retired from the service. Judge Gonzales then, for her security, instructed Ms. De Leon to prepare the monthly report for the fiduciary fund from the time Judge Gonzales had assigned her to do the recording and monitoring which respondent would review. If everything was in order, respondent would issue a certification to the effect that said reports were true and correct.^[10]

On 6 July 2007, Judge Gonzales informed the Court Administrator that for a period of time a total of P63,861.20 had not been remitted to the proper accounts. As such, Judge Gonzales ordered respondent to explain her inaction.^[11]

In her explanation dated 19 June 2007, respondent again admitted her infractions and explained that financial problems beset her and her family.^[12]

In view of Judge Gonzales's requests, as well as her observations on the manner of collections by respondent, another team (the second team) was authorized to finalize the financial examination from 23 July 2007 to 3 August 2007.^[13]

In the morning of 23 July 2007, the second team found an accountability balance or shortage of P10,960.40 for the period between 2 July and 19 July 2007, broken down as follows:

Denomination	Pieces	Equivalent
P 500.00	1	P 500.00
200.00	1	200.00
100.00	8	800.00
Total Cash in Hand		P 1,500.00

The shortage is computed as follows:

Fund	OR Issued	Period	Amount
JDF	6421736 to 642150, 64218011	July 2 to 29, 2007	P5,342.80
SAJF	6421769 to 6421785	July 2 to 19, 2007	6,977.20
LRF	0557025 to 0557030	July 2 to 19, 2007	120.00
Total Collected amount for the period July 2-19, 2007			P12,440.00
*Less: Total Cash on HAND on July 23, 2007			1,500.00
Balance of Accountability (SHORTAGE) upon demand Of the undeposited collections as of July 19, 2007			P 10,940.00

The second team then required respondent to produce the missing amount for the duration of the audit period but to no avail. The amount was only deposited on 21 and 22 August 2007 for SAJF and JDF, and on 10 October 2007 for the LRF collections.

Following are the other significant audit findings by the second team contained in its Report:^[14]

Particulars	JDF	GF	SAJF	Mediation
<i>Period Covered</i>	<i>March, 1985 to June 2007</i>	<i>Nov. 1990 to Nov. 2003</i>	<i>Nov. 11, 2003 to June 30, 2007</i>	<i>August 2004 to June 30, 2007</i>
Total Collection	826,984.52	209,137.60	287,847.60	136,000.00
Total Remittance	816,836.70	203,132.20	250,525.80	125,500.00
Balance	10,147.82	6,014.40	37,321.80	10,500.00
<i>Less: GF coll. Erroneously remitted to JDF account</i>	<i>10,566.20</i>	<i>10,566.20[?]</i>		
<i>Less: SAJF Collection erroneously deposited to GF account</i>		<i>(4,599.80)</i>	<i>4,599.80</i>	
Total	20,714.02		32,722.00	
<i>Less: Deposit made on July 23, 2007 for June 19 to 26, 2007 collection</i>	<i>2,631.20</i>		<i>5,268.80</i>	
Balance of Accountability (SHORTAGE) per Reconciliation	18,082.82		27,453.20	
<i>Add: Unreceipted Marriage Solemnization</i>	<i>11,026.00</i>		<i>74.00</i>	
Balance of Accountabilities/SHORTAGE	29,108.82	48.00	29,527.20	10,500.00

For the above funds which legal fees are remitted to the Supreme Court, the team observed the following deviation to the prescribed guidelines under the Government Accounting & Auditing Manual (GAAM) and

SC Circulars, to wit:

1) Delayed remittances, specifically for the period from April to June 2007, for JDF & SAJF collections:

JDF

Period	Amount Collected	Amount Remitted	Date Remitted	Balance (OVER)/UNDER
April, 2007	9,256.00	1,683.60	04/23/07	7,572.40
May, 2007	8,280.42	3,030.40	06/20/07	5,250.02
June 2007	7,956.80	2,631.20	07/23/07	5,325.60

SAJF

Period	Amount Collected	Amount Remitted	Date Remitted	Balance (OVER)/UNDER
April, 2007	23,494.00	4,566.40	04/23/07	18,927.60
May, 2007	4,258.00	4,258.00	06/08/07	
June 2007	13,993.20	200.00	06/20/07	13,793.20

Article 1, Section 111 of GAAM provides that all collections totaling to P500.00 and more should be remitted within 24 hours upon collection or when it is below P500.00 on a weekly basis.

2) The unreceipted Solemnization Fee which totaled P11,100.00 proves that no collections were received for the service rendered. It is the responsibility of the Clerk of Court/Accountable Officer to make sure that the prescribed legal fees are collected before solemnization of marriage would take place.

The team recommended the "NO RECEIPT, NO SOLEMNIZATION" policy to Ms. Chico and Judge Gonzales, to prevent the same infraction. The team also stressed that the total unreceipted and unremitted amount of P11,100.00 will form part of Ms. Chico's accountabilities. These were already included with the final accountabilities computed above.

3) The official Cashbook was not certified by Ms. Chico as to the correctness of the entries of transactions indicated herein at the end of the month.

4) The term noticed the withdrawals of interest earned from Fiduciary Fund account amounting to P2,398.29 on May 10, 2007 for the period January to March, 2007 but *NO remittance* to JDF account was found until the duration of the audit on August 3, 2007. This amount was recognized as part of May 2007 transactions and included in the final accountability for JDF account as shown above.

Summarized below are the Accountabilities for amounts held in Trust by the Court:

Particulars	Fiduciary Fund	Sheriff Trust Fund
<i>Period covered</i>	<i>1995 to June 30, 2007</i>	<i>August 2004 to June 30, 2007</i>
<i>Total collection including MTO deposit amounting to P823,200.00</i>	<i>P 2,342,100.00</i>	<i>P 118,100.00</i>
<i>Total Withdrawals for the same period</i>	<i>1,182,000.00</i>	<i>4,186.00</i>
<i>Unwithdrawn Balance as of June 30, 2007</i>	<i>1,160,100.00</i>	<i>113,814.00</i>
<i>Less: Adjusted Bank Balance as of June 30, 2007</i>	<i>1,071,100.00</i>	<i>103,814.00</i>
Balance of Accountability/SHORTAGE	89,000.00	10,000.00

The two (2) trust funds are maintained by the Court in one Savings Account under LBP SA#3421-0053-10. The team advised Ms. Chico and Judge Gonzales to:

- Open an account for Sheriff Trust Fund (STF), both of them should be the signatories in an "AND" capacity;
- Have a separate cashbook for STF;
- Issue official receipts separate from fiduciary fund or use a different booklet(s) of official receipt(s) upon collection; and
- Regularly report on a monthly basis all transactions of STF to SC Revenue Section, Accounting Division, Financial Management Office, OCA.

SHERIFF TRUST FUND

1. It was also observed that release of transportation allowance to process server, Jimmy Gonzales was not authorized by Judge Teodora R. Gonzales. A mere acknowledgement receipt of Ms. Gonzales serves as proof of its disbursement. Administrative Circular No. 35-2004, Sec. 10, 13th par. states that:

x x x the Sheriff, process server or other court authorized person shall submit for its approval (by Presiding/Executive) a Statement of Estimated Travel Expense for service of summon and

court processes. After service, a statement of LIQUIDATION shall be submitted to the court for approval, i.e., Presiding/Executive Judge.

The team warned Ms. Chico that she will be held accountable for the travel/transportation expenses incurred by Mr. Gonzales if the latter would not be able to submit the liquidation report. Thus, she was advised to demand from Mr. Gonzales to liquidate the cash advances made by him, otherwise she will pay for the unliquidated amounts.

The team also informed Judge Gonzales to effect the approval of the Statement of Estimated Travel Expenses (SETE) of Mr. Gonzales before a cash advance equivalent to the amount stated in SETE shall be released to him by the Clerk of Court.

2. Also, when Civil Case No. 06-06 was filed, the P1,000.00 due to STF account was not collected. The team advised Ms. Chico that the P1,000.00 to be paid from CC#06-06 is part of the shortage balance of P10,000.00.

3. Further, upon opening a separate savings account for STF the shortage balance of P10,000.00 should be restituted first, to complete the total Unwithdrawn Sheriff Trust Fund amounting to P113,814.00.

FIDUCIARY FUND

Aside from the computed shortage amounting to **P89,000.00** the team was alarmed with the following observations, to wit:

I. Although actually refunded to the parties and remitted to the JDF account at the time of the audit, numerous WITHDRAWALS and CONFISCATED cash bonds were not reported to the Supreme Court enumerated below.

OR NO.	CASE NO.	NAME OF PARTY	Date Collected	Amount Collected	Date of Court Order	Amount Withdrawn	Date Refunded	Amount Confiscated	Date Confiscated
13115321	02-129	Albert dela Cruz	11/13/02	3,000.00	01/19/05			3,000.00	01/10/07
13115314	2002-89	Eliza Cariño	06/03/02	1,000.00	01/19/05			1,000.00	01/12/06
13115333	02-89	Eliza Cariño	11/05/03	2,000.00	01/19/05			2,000.00	01/12/06
13115343	02-41	Silvestre Quiambao	06/02/04	85,000.00	12/13/04	85,000.00	02/28/05		
13115340	04-55	Reynoso Capulong	03/19/04	5,000.00	09/30/04	5,000.00	10/08/04		
13115339	04-55	Flora Marcos	02/19/04	5,000.00	09/30/04	5,000.00	10/08/04		
13115307	01-601	Jesus Espinosa	01/14/02	6,000.00	03/30/05	6,000.00	04/14/05		
13115324	02-223	Roberto Lumiars	12/17/02	5,000.00	02/17/04	5,000.00	08/20/04		
13115342	03-122	Normita Cunanan	05/19/04	1,000.00	05/19/04	1,000.00	02/17/04		
9137964	9948	Rogelio Mutuc	08/09/99	3,000.00	09/10/03	3,000.00	09/11/03		
13115337	03-13 to 14	Josefina Alfonso	02/04/04	1,000.00	08/11/04			1,000.00	11/24/07
Unreceipted	9308-9312	Josephine Oida	02/08/06	8,000.00	09/21/05	3,000.00		8,000.00	01/09/07
13115317	02-152 & 153	Carmelita Bicomong	07/16/02	10,000.00	03/01/04			10,000.00	03/04/04
13115335	01-583	Claudio Sumang	01/12/04	2,000.00	12/20/05			2,000.00	01/09/06
13115336	04-05	Elenita de Vera	01/14/04	6,000.00	01/19/05			6,000.00	01/16/06
13115308	01-683 & 684	Homer Caylao	01/16/02	4,000.00	09/23/04	4,000.00	01/10/05		
TOTAL				147,000.00		114,000.00		33,000.00	

As presented, a total of **P147,000.00** was refunded and confiscated cash bonds were RESTITUTED by Ms. Chico. This also represents a portion of the cash collections she didn't deposit upon its receipt and admittedly used for her own *family's* benefit.

Ms. Chico admitted to the Team that these cash bonds were not deposited to the bank (LBP) when they were collected, the team found that [these] undeposited collections ballooned to a maximum amount of P368,400.00 for the period September 2000 to June 30, 2007(See schedule A for details). The amount of P368,400.00 was reduced to P89,000.00 because Ms. Chico returned the amount collected to the bondsmen/accused, if there is a court order to release the same or there is an order of confiscation, broken down as follows:

<i>Total</i>	<i>Undeposited</i>	<i>Collections</i>
<i>P368,400.00</i>		
<i>Less: Cash found on hand during</i>		
<i>The First Audit</i>	<i>P132,400.00</i>	
<i>Refunded Cash bonds as of</i>		
<i>June 30, 2007</i>	<i>114,000.00</i>	
<i>Confiscated Cash bonds transferred</i>		
<i>To JDF</i>		<i><u>33,000.00</u></i>
<i><u>279,400.00</u></i>		
<i>Shortage amount as of June 30, 2007</i>		<i><u>P 89,000.00</u></i>

The shortage balance amounting to P89,000.00 was restituted on August 30, 2007. The total cash amounting to P132,000.00 was found on hand during the first surprise cash count by the first Audit Team which was deposited to the nearest LBP (San Fernando Branch) only on June 25, 2003. It was further revealed that the refunded cash bonds were taken from the available cash that Ms. Chico has in her possession, until the said Audit Team arrived at the subject court.

Ms. Chico failed to report the said withdrawals to the court because she did not know how to present the unlikely transactions in her Monthly Report of Collections/Deposit & Withdrawals because Judge Gonzales would scrutinize all the transactions in the report.

Since Judge Gonzales has directed Ms. Chico to present to her the Court's passbook to release the cash bonds to the accused/bondsman amounting to P114,000.00 and to deposit all confiscated cash bonds to the JDF account amounting to P33,000.00 with court orders, she has no recourse but to retribute the said amounts which she used for personal gain, thus, leaving a shortage balance of P89,000.00. This shortage balance was also restituted on August 30, 2007 after the duration of the Second Audit.

II. FORGED SIGNATURES:

- a) **CASE NO. 02-152 to 02-153**, payee, **Carmelita Bicomong**, under SC OR# 13115317 collected on July 16, 2002, amounting to **P10,000.00** was reported to the Accounting Division, FMO-OCA to have been withdrawn and refunded on March 4, 2004 with Court Order *apparently signed* by Judge Roy Gironella, but was only ordered CONFISCATED by Judge Teodora Gonzales on **October 19, 2005**.

Attached to the Monthly Report submitted to Accounting Division, FMO-OCA when this case was *allegedly withdrawn* on March 4, 2004, were withdrawal slip, "duly signed" by Judge Roy Gironella,, copy of Judge Gironela's order marked only with "ORIGINAL SIGNED", and acknowledgement receipt allegedly signed by Carmelita Bicomong.

- b) **CASE NO. 02-27 to 02-31**, payee, **Luisa Manarang**, under OR# 13115310 collected on February 2, 2002, amounting to P10,000.00 reported to the Accounting Division, FMO-OCA to have been withdrawn and refunded on **March 4, 2004** but the casewas actually DISMISSED only on **September 23, 2004** by Judge Gonzales.

Attached to the Monthly Report submitted to Accounting Division, FMO-OCA when this case was *allegedly withdrawn* were withdrawal slip, "duly signed" by Judge Gironela, copy of Judge Gironella's order marked only "ORIGINAL signed", and acknowledgment receipt allegedly signed by **Luisa Manarang**.

- c) These two mentioned cash bonds (items a & b) were questioned by Judge Gonzales because they were already reported withdrawn but the cases were still being actively tried by the court at the time she assumed office. The bonds in both cases were eventually ordered confiscated and withdrawn on March 4, 2004.

The depository bank did not question the validity of the withdrawal slips because they were apparently signed by then Judge Gironella and the court order having stamped with "Original Signed."

Ms. Chico confided that she prepared the court orders and intentionally marked them as "original signed" making it appear that Judge Gironella signed the withdrawals slips, she forged his signature to complete the two (2) signatories required by the bank which Clerk of Court and the Presiding/Executive Judge of the Court