

## EN BANC

**[ A.M. No. P-04-1917 (Formerly A.M. No. 04-10-297-MTCC), December 10, 2007 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
MRS. ELADIA T. CUNTING, FORMER CLERK OF COURT, OFFICE OF  
THE CLERK OF COURT, MUNICIPAL TRIAL COURT IN CITIES,  
ZAMBOANGA CITY, RESPONDENT.**

### DECISION

**NACHURA, J.:**

This administrative case is the result of the financial audit conducted by the Office of the Court Administrator (OCA) in the Municipal Trial Court in Cities (MTCC) of Zamboanga City, the antecedents of which are as follows:

On September 4, 2003, the OCA received a copy of the letter of Atty. Linda Lim, complaining about the Clerk of Court of the MTCC of Zamboanga City, respondent Eladia T. Cunting, who allegedly caused the delay in the release of the full amount adjudged in favor of her client, and the dishonor of the checks due to insufficiency of funds. This letter-complaint prompted the Fiscal Monitoring Division of the OCA to form an audit team to investigate the financial state of the said court. The team audited the books of accounts of the MTCC of Zamboanga City from September 15 to 19, 2003.

On November 10, 2003, the respondent wrote a letter to Hon. Efren S. Mariano, Executive Judge, MTCC, Zamboanga City, stating as follows:

In anticipation that I will be obliged to answer for the amount of money that have not been fully accounted for as a result of the audit, I wish to request you that said amount be charged to whatever retirement benefits I may be entitled to, including the commutation of all my leave balances accumulated over the years that I was an employee of the Supreme Court of the Philippines.

It may likewise be informed that a number of parties have been coming to my residence, accordingly upon advice of some court employees, seeking the refund of bail bonds posted in the respective cases that these parties were involved in, which cases have been either provisionally or permanently dismissed. For this reason, I thus request that my salaries, which I learned have been held in abeyance, be used to answer for such refund of bail bonds. It may be informed that since payment of my salaries and other remunerations is currently suspended, I am not in a position to personally answer for such refund.<sup>[1]</sup>

On October 6, 2004, the audit team submitted its report to the OCA. The audit team found that respondent had been remiss in the performance of her duties and that

there were massive shortages in the court's funds.

In accordance with the recommendation of the OCA, the Court issued a Resolution<sup>[2]</sup> dated December 1, 2004, directing the respondent to deposit the amounts of P10,049,496.60 to the Fiduciary Trust Fund account, P972,634.02 to Judiciary Development Fund account, and P117,093.36 to the Special Allowance for Judiciary account. She was also directed to submit the court orders, acknowledgment receipts and other documents showing the unauthorized withdrawals from the said accounts. In the same Resolution, the Court resolved to issue a Hold Departure Order against the respondent and to suspend her pending the resolution of the case. The Court, likewise, directed the Legal Office of the OCA to file the appropriate criminal charges against the respondent.

In a letter<sup>[3]</sup> dated January 17, 2005, the respondent asked for an additional period of thirty (30) days within which to comply with the December 1, 2004 Resolution. She averred that she needed additional time to produce the documents required to be submitted and to prepare her answer to the charges imputed to her. The Court granted the request for extension of time. However, the respondent did not submit any document within the extended period.

On July 18, 2005, the Court issued a Resolution<sup>[4]</sup> directing the respondent to show cause why she should not be disciplinarily dealt with for failure to file her answer and submit the required documents. When the respondent failed to comply, the Court issued another Resolution<sup>[5]</sup> on December 14, 2005, imposing upon the respondent a fine of P1,000.00, or imprisonment of five (5) days, and requiring her to comply with the previous orders of the Court. Still, the respondent failed to comply. In a Resolution<sup>[6]</sup> dated March 19, 2007, the Court imposed upon the respondent an additional fine of P2,000.00. She was also directed to show cause why she should not be held in contempt of court for failure to comply with the Court's orders.

Thereafter, the OCA reevaluated the case and reassessed the respondent's liability to include the withdrawals which the respondent failed to substantiate. The OCA reported, thus:

First, the respondent left open the vault. On the day the audit team arrived at the MTCC of Zamboanga City, respondent was attending a seminar in Dipolog City. The audit team noticed that the vault was open making it accessible to any person in court.

Second, the audit team found cash amounting to P10,670.30 stored in the vault. The team had to presume that this amount forms part of the court collections because the source of the money can not be confirmed from the respondent who did not report for work during the entire period of the audit notwithstanding the instruction of Judge Mariano for her to cut short her attendance in the seminar in Dipolog City so she can attend to the needs of the audit team.

Third, there were missing accountable forms. The Office of the Clerk of Court of the MTCC of Zamboanga City requisitioned several booklets of official receipts from this Court which the audit team can not find among

the records of the said court. These are:

<b><u>O.R. Serial Numbers</u></b>	<b><u>No. of Booklet Packed/Mailed</u></b>	<b><u>Date Mailed</u></b>
80501 to 81000	10	08.01.86
2653001 to 2653500	10	08.13.92
10438951 to 10439000	01	12.16.98
11148051 to 11148100	01	05.19.99
11148901 to 11148950	01	05.19.99
13217801 to 13217850	01	07.14.00
13218551 to 13218750	04	07.14.00
13218801 to 13218850	01	07.14.00
14126101 to 14126250	03	01.31.01
15067151 to 15067250	02	07.31.01
15561151 to 15561250	02	11.07.01
16574151 to 16574250	02	06.04.02
17220501 to 17220800	06	11.07.01
18110151 to 18110250	02	04.23.03
Total	<u>46</u>	

Fourth, the audit team found out that the Office of the Clerk of Court of the MTCC of Zamboanga City issued receipts which were not requisitioned from this Court.

Fifth, the audit team discovered a shortage in the collections for the Clerk of Court General Fund in the amount of P116,431.30. The total collections for this fund from November 1996 to June 2003 is P537,069.54. Deducted therefrom is the amount of P493,452.49 representing the amount properly deposited or remitted to the bank. This left an unremitted balance of P43,617.05. The audit team did not consider as valid deposits or remittances those amounts reflected in several deposit slips without any machine validation. These amounted to P72,814.25. Thus, insofar as these amounts are concerned, there are doubts as to whether these deposits were actually made, hence, these have to be treated as unremitted collections and added to the unremitted balance of P43,617.05. The total accountability of respondent is P116,431.30. This is summarized as follows:

Total collections, November 1996 to June 2003	P 537,069.54
<b>Less:</b> Total Remittances/Deposits	<u>493,452.49</u>
Unremitted Collections	43,617.05
<b>Add:</b> Unconfirmed Deposits per Deposit Slips Without Machine Validations (Schedule 1)	72,814.25
<b>Shortage</b>	P 116,431.30

The deposit slips without any machine validation are:

<b><u>Date</u></b>	<b><u>Monthly Report</u></b>	<b><u>Deposit Slip Amount</u></b>
12-03-96	Nov. 1996	P 3,352.00

01-13-97	Dec. 1996	1,850.00
02-03-97	Jan. 1997	1,535.00
04-10-97	Mar. 1997	8.00
07-07-97	June 1997	1,840.40
11-12-97	Oct. 1997	9,080.00
09-13-99	Aug. 1999	9,000.00
02-02-00	Nov. 1999	3,928.05
2-23-00	Jan. 2000	6,160.00
2-23-00	Jan. 2000	4,309.00
2-23-00	Jan. 2000	2.80
3-15-00	Feb. 2000	13,725.00
6-02-00	May 2000	3,333.32
6-02-00	May 2000	334.68
11-07-00	Oct. 2000	4,323.92
11-07-00	Oct. 2000	354.08
7-18-01	June 2001	3,267.00
01-08-02	Jan. 2002	3,515.00
04-21-03	March 2003	<u>2,896.00</u>
	<b>TOTAL</b>	<b><u>P 72,814.25</u></b>

Sixth, the audit team found out that respondent did not maintain a cash book for the Clerk of Court General Fund for the period of September 1999 to June 2003. The team also noticed that respondent did not regularly submit the monthly reports of collections for the Clerk of Court General Fund. The lacking monthly reports pertain to the months of November 2000, June 2001, October 2002, December 2002, May 2003 and June 2003. As a result, the Accounting Division of this Court was not able to prepare the Subsidiary Ledger for the corresponding months.

Seventh, the audit team noticed numerous mistakes in reporting to this Court the collections in the Clerk of Court General Fund. The team observed discrepancies between the amount indicated in the official receipts and the amount in the monthly reports, to wit:

<u>DATE</u>	<u>O.R. NO.</u>	<u>AMOUNT PER MONTHLY REPORT</u>	<u>AMOUNT PER OFFICIAL RECEIPT</u>	<u>SHORT OVER</u>
01-13-00	3782807	1.00	5.00	5.00
01-17-00	3782822	1.00	2.00	1.00
01-18-00	3782846	1.00	2.00	1.00
01-18-00	3782849	1.00	5.00	4.00
01-19-00	3782855	1.00	10.00	9.00
02-07-00	3783002	10.00	1.00	(9.00)
02-08-00	3783017	5.00	250.00	245.00
02-08-00	3783024	1.00	2.00	1.00
02-08-00	3783026	2.00	1.00	(1.00)
02-08-00	3783053	5.00	1.00	(4.00)
02-17-00	3783100	1.00	10.00	9.00
02-17-00	3783101	10.00	1.00	(9.00)

02-18-00	3783107	1.00	10.00	9.00
02-18-00	3783122	5.00	1.00	(4.00)
02-18-00	3783124	5.00	1.00	(4.00)
02-22-00	3783178	1.00	2.50	1.50
02-23-00	3783185	1.00	2.00	1.00
02-23-00	3781393	2.00	1.00	( 1.00)
02-23-00	3781394	1,970.00	2.00	(1,968.00)
02-23-00	3781395	1.00	1,970.00	1,969.00
02-23-00	3781397	2.00	1.00	(1.00)
02-23-00	3781399	1.00	2.00	1.00
03-93-00	3783314	1.00	10.00	9.00
03-07-00	3783356	5.00	1.00	(4.00)
03-22-00	3783461	4.00	28.00	24.00
03-22-00	3784533	1.00	5.00	4.00
03-22-00	3784534	1.00	2.00	1.00
07-12-00	3784636	48.00	52.00	4.00
07-19-00	3784718	208.00	68.00	(140.00)
08-14-00	12356849	2.00	4.00	2.00
08-14-00	12356850	2.00	4.00	2.00
08-16-00	12356858	210.00	200.00	(10.00)
09-14-00	12356972	8.00	4.00	(4.00)
09-27-00	12356998	2.00	204.00	202.00
10-04-00	13218778	<u>2.00</u>	<u>399.00</u>	<u>397.00</u>
<b>TOTALS</b>		<b><u>2,522.00</u></b>	<b><u>3,263.00</u></b>	<b><u>741.50</u></b>

Eighth, there was also a shortage in the collections for the Judiciary Development Fund in the amount of P574,927.47. The total collection for this fund from November 1996 to June 2003 is P2,531,283.06. The audit team deducted therefrom the amount of P2,259,358.67 representing the valid remittances/deposits to the bank. This left an unaccounted balance of P271,924.39. The team added to the accountability of respondent the amount of P303,003.08 which was summed up from the deposit slips without any machine validation. Under Administrative Circular No. 3-2000 (June 15, 2000), it was stated that "[d]eposit slips that are not machine validated shall not be considered as deposits." The total shortage was arrived at in this manner.

Total collections, November 1996 to June 2003	P 2,531,283.06
<b>Less:</b> Total Remittances/Deposits	<u>2,259,358.67</u>
Unremitted Collections	271,924.39
<b>Add:</b> Unconfirmed Deposits per Deposit Slips Without Machine Validations (Schedule 2)	<u>303,003.08</u>
<b>Shortage</b>	P 574,927.47

The deposit slips without machine validation are:

<u>Date</u>	<u>Monthly Report</u>	<u>Deposit Slip</u>
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