

## **THIRD DIVISION**

**[ A.M. NO. 05-11-320-MCTC, February 17, 2006 ]**

### **REPORT ON THE FINANCIAL AUDIT ON THE BOOKS OF ACCOUNTS OF MR. DELFIN T. POLIDO, FORMER CLERK OF COURT OF MUNICIPAL CIRCUIT TRIAL COURT, VICTORIA-LA PAZ, TARLAC**

#### **RESOLUTION**

##### **QUISUMBING, J:**

This administrative matter is a result of the audit, conducted by the Office of the Court Administrator (OCA), of the books of accounts of Delfin T. Polido, former Clerk of Court of the Municipal Circuit Trial Court, Victoria-La Paz, Tarlac. He was due to compulsorily retire on December 19, 2002.

The OCA requested Polido to submit all documents necessary for reconciliation of his books of accounts<sup>[1]</sup> but he failed to comply. After a follow-up letter, the Fiscal Monitoring Division (FMD) received the documents on April 2, 2003 on his Judiciary Development Fund (JDF) collection of the OCA and on August 29, 2003, the documents on the Clerk of Court General Fund and the Fiduciary Fund. The FMD after reconciling the books of accounts found that: (1) out of the P76,236.01 total collections for the Clerk of Court General Fund, only P71,101.61 was actually remitted, thus, there was an under-remittance of P5,134.40;<sup>[2]</sup> and (2) there was a shortage of P38,000 in the Fiduciary Fund.<sup>[3]</sup>

It took almost a year since the FMD informed Polido of the shortages before he visited the FMD to explain the shortages and admitted that he retained cash collected from the fiduciary fund intended for the release of withdrawn cash bonds.

He was told to put his explanation in writing and settle his accountabilities. He did not.

Again it took over a year, before he asked the FMD how much he was accountable for. A week later, he informed the FMD that he deposited P38,000 representing the shortage in the Fiduciary Fund and had paid P5,134.40 directly to the OCA-Cashier to settle the shortage in the Clerk of Court General Fund. He explained he settled the shortages after reconciling his figures with those of the FMD. Nonetheless, he did not present proof that he indeed retained money to cover withdrawn or refunded cash bonds. He explained that he no longer had access to the records for it had been three years since his compulsory retirement. He admitted that indeed he did not deposit some of his collections, but he could no longer remember the full details. He added that since he agreed with the findings on his shortages and had refunded these, his retirement benefits could already be released.

The Office of the Court Administrator found that although Polido had restituted all

his cash accountabilities, he is nevertheless liable for failing to deposit immediately the collection for the judiciary funds.<sup>[4]</sup>

The OCA recommended the imposition of a fine of P5,000 against Polido. In addition, the OCA advised the incumbent clerk of court, Ms. Teresita A. Santos, to strictly observe all Circulars issued by the Court. The OCA directed the presiding judge of MCTC Victoria-La Paz, Tarlac, to monitor all financial transactions of that court to prevent future similar offenses.

We agree with the OCA's recommendations.

Supreme Court Administrative Circular No. 5-93<sup>[5]</sup> provides the guidelines for all Clerks of Court concerning the proper administration of court funds. This Circular mandates that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank.

Furthermore, Supreme Court Administrative Circular No. 5-93 provides that collections for the JDF shall be deposited every day with the local or nearest branch of the Land Bank of the Philippines. If depositing daily is not possible, deposits for the judiciary fund shall be every second and third Fridays and at the end of every month. In case the collections reached P500, the same shall be deposited immediately even before the days indicated.<sup>[6]</sup>

In this case, there were discrepancies between the reported total collections and the actual amount remitted to the Clerk of Court General Fund, and there were shortages in the Fiduciary Fund account, that Polido could not explain. Although he has subsequently settled the shortages, he is nevertheless administratively liable for the violations of Supreme Court Administrative Circular No. 5-93.<sup>[7]</sup>

As custodian of court funds and revenues, Clerks of Court have always been reminded of their duty to immediately deposit the various funds received by them to the authorized government depositories for they are not supposed to keep funds in their custody.<sup>[8]</sup>

Failure to fulfill these responsibilities deserves administrative sanction, and not even the full payment, as in this case, of the shortages will exempt the accountable officer from liability.<sup>[9]</sup> The Court has to enforce what is mandated by the law, and to impose a reasonable punishment for violations thereof. Aside from being the custodian of the court's funds and revenues, property and premises, a clerk of court is also entrusted with the primary responsibility of correctly and effectively implementing regulations regarding fiduciary funds.<sup>[10]</sup> Safekeeping of funds and collections is essential to an orderly administration of justice, and no protestation of good faith can override the mandatory nature of the circulars designed to promote full accountability for government funds.<sup>[11]</sup>

Delay in the remittances of collections constitutes neglect of duty.<sup>[12]</sup> The failure to remit on time judiciary collections deprives the court of interest that may be earned if the amounts are deposited in a bank.<sup>[13]</sup> Shortages in the amounts to be remitted and the years of delay in the actual remittance constitute neglect of duty