

EN BANC

[A.M. No. P-17-3746, August 28, 2019]

RE: REPORT ON THE FINANCIAL AUDIT CONDUCTED AT THE MUNICIPAL TRIAL COURT IN CITIES, CEBU CITY.

D E C I S I O N

PER CURIAM:

In this administrative case, We remind members of the Judiciary that they should remain honest in the performance of their duties regardless of their financial circumstances, and exercise the diligence required of them.

In Audit Observation Memorandum No. 15-001 dated October 16, 2015, the Commission on Audit, Regional Office No. VII, Cebu City reported that not all collections of the Municipal Trial Court in Cities (MTCC), Cebu City were deposited on time. Consequently, a team composed of representatives from the Fiscal Monitoring Division (FMD), Court Management Office (CMO), Office of the Court Administrator (OCA) (collectively, the team), conducted a financial audit in the Office of the Clerk of Court (OCC), MTCC, Cebu City from November 22, 2015 to October 21, 2016. The audit covered the accountability period of: 1) Teresita S. Remotigue (Remotigue), Clerk of Court IV, from February 1, 2000 to July 31, 2008; 2) Josefina A. Uy (Uy), Clerk of Court III/Officer in Charge, from August 1 to October 31, 2008; and 3) Josephine R. Teves (Teves), Clerk of Court IV, from November 1, 2008 up to the date of the team's audit report.^[1] The objectives of the audit were to: 1) determine the accuracy and regularity of the cash transactions; 2) determine if all the judiciary fund collections have been deposited in full within the prescribed period; 3) determine if the filing fees were collected in accordance with the provisions of the Amended Administrative Circular No. 35-2004^[2] dated August 20, 2004; and 4) aid the Clerk of Court on the proper bookkeeping and accounting of the Court's Judiciary funds.^[3]

The team compared the official receipts from the records of the Property Division, Office of the Administrative Services (OAS) and OCA as against the official receipts that the MTCC dispatched. After examining the available duplicate and triplicate copies of the official receipts, the team discovered that alterations and erasures were made on the official receipts of the Judiciary Development Fund (JDF) and the Special Allowance for the Judiciary Fund (SAJF). When the team interrogated Alma Bella S. Macaldo (Macaldo), Records Officer II, and Josefina P. Veraque (Veraque), Cashier I, they admitted that they altered the duplicate and triplicate copies of the official receipts by understating the amount collected and modifying the date of the transaction. Macaldo surrendered photocopies of the duplicate copies of some of the tampered official receipts.^[4] The team's further investigation revealed that Macaldo and Veraque handled the financial transactions of the MTCC and Teves, in full trust and confidence, would just sign the monthly reports.^[5]

The team discovered the following discrepancies in the amount collected and the amount reported in the official cashbook and triplicate copy of issued official receipts for cases filed from January 2013 to December 2015:^[6]

Item	Amount Collected	Amount Reported	Variance
JDF for BP [Batas Pambansa Bilang (BP)] 22 ^[7]	P616,994.20	P140,093.60	P476,900.60
SAJF BP 22	621,417.20	147,747.20	473,670.00
2013 JDF for Ordinary Cases	678,702.00	209,902.00	468,800.00
2013 SAJF for Ordinary Cases	648,140.00	271,752.00	376,388.00
2014 JDF for Ordinary Cases	506,884.50	185,066.50	321,818.00
2014 SAJF for Ordinary Cases	832,592.50	220,014.50	612,578.00
2015 JDF for Ordinary Cases	820,974.80	284,924.80	536,050.00
2015 SAJF for Ordinary Cases	1,216,160.30	317,872.30	898,288.00
2013-2015 JDF based on the photocopy of the duplicate copies from Macaldo	599,514.60	178,454.60	421,060.00
2013-2015 SAJF based on the photocopy of the duplicate copies from Macaldo	1,198,172.26	378,550.26	819,622.00
TOTAL	7,739,552.36	2,334,377.76	5,405,174.60

Based on the team's observation that the unwithdrawn Fiduciary Fund was P48,959,451.94 while the bank balance for the Fiduciary Fund as of October 31, 2015 was only P48,930,742.88, there was a noted shortage of P28,709.06.^[8]

On December 4, 2015, Macaldo executed an affidavit admitting that she received funds from Veraque and used it for personal matters.^[9]

From December 28, 2015 to September 28, 2016, Veraque restituted a total amount of P550,000.00 each for the JDF and the SAJF. On the other hand, Macaldo paid a total of P118,000.00 each for the JDF and the SAJF from September 28, 2016 to May 19, 2017.^[10] As for the balance of the shortage, Veraque and Macaldo asked for an extension of time to pay them. They also executed an affidavit stating that Teves had no knowledge of the tampering of the official receipts.^[11]

In its Report dated May 10, 2017, the team recommended the following:

1. **Ms. ALMA BELLA S. MACALDO**, Records Officer II, and **Ms. JOSEFINA P. VERAQUE**, Cashier I, both of the MTCC Cebu City, be:

- a). found **GUILTY** of dishonesty and gross misconduct for tampering the amounts collected in the triplicate copies of official receipts of the JDF and SAJF and deliberate intent to delay the deposit of court's daily collections by way of alterations on the dates of the triplicate copies of official receipts for the Fiduciary Fund;

- b). **DISMISSED** from the service with prejudice to re-employment in any government owned and controlled corporation, and all their withheld salaries, allowances and benefits, if any, excluding the money value of their earned leave credits and whatever claims they may have with the Government Service Insurance System (GSIS) **be ORDERED** forfeited in favor of the JDF and SAJF accounts; and

- c). **DIRECTED** to **RESTITUTE** the remaining balance of accountabilities for the JDF and SAJF amounting to Four Million Sixty Nine Thousand One Hundred Seventy-Four Pesos and 60/100 (P4,069,174.60) summarized as follows:

X X X X

2. The Financial Management Office, OCA be **DIRECTED** to compute the money value of the earned leave credits based on:

- a. Service Record
- b. Certificate of Leave Credits
- c. Notice of Salary Adjustment; and
- d. Notice of Step Increment (if there is any)

provided by the Office of the Administrative Services (OAS-OCA) as well as withheld salaries and other benefits that they may be entitled to receive, to be applied as restitution for the shortages totaling to Four Million Sixty Nine Thousand One Hundred Seventy-Four Pesos and 60/100 (P4,069,174.60) that they are jointly and severally liable dispensing with the usual documentary requirements.

3. **Ms. JOSEPHINE R. TEVES**, Clerk of Court IV, MTCC Cebu City be:

- 3.a) **DIRECTED** to **EXPLAIN** in writing within ten (10) days from receipt of notice why she should not be held administratively liable for her failure to take measures to safeguard the judiciary funds against misappropriation of her subordinates;

- 3.b) **SUSPENDED** indefinitely for gross neglect of duty, inefficiency and incompetence in the performance of her duties; and

- 3.c) **RESTITUTE** the shortages for Fiduciary Fund amounting to Twenty[-]Eight Thousand Seven Hundred Nine Pesos & 06/100

(P28,709.06) computed as follows:

X X X X

4. **Hon. PAMELA BARING-UY**, Acting Executive Judge, MTCC, Cebu City, be **DIRECTED** to:

4.a) **MONITOR** the financial transactions of the court to ensure strict observance of the issuances of the Court in order to avoid any irregularity in the collections, deposits and withdrawals/disbursements of court funds, otherwise, she will be held equally liable for the infractions committed by the erring employee under her supervision; and

4.b) **STUDY AND IMPLEMENT** procedures that shall strengthen the internal control system to safeguard the judiciary funds.

5. A **WRIT OF PRELIMINARY ATTACHMENT** be **ISSUED** directing **Hon. PAMELA BARING-UY**, Acting Executive Judge, MTCC, Cebu City, to attach so much of the property of respondents Ms. ALMA BELLA S. MACALDO, Records Officer II, and Ms. JOSEFINA P. VERAQUE, Cashier I, MTCC Cebu City, not exempt from restitution, as may be sufficient to satisfy the total shortages xxx.

6. A **HOLD DEPARTURE ORDER** be **ISSUED** against Ms. **JOSEPHINE R. TEVES**, Clerk of Court IV, **Ms. ALMA BELLA S. MACALDO**, Records Officer II and Ms. **JOSEFINA P. VERAQUE**, Cashier I, all of the MTCC Cebu City, preventing them from travelling abroad without authority from this Court.

7. The Legal Office, OCA, be **DIRECTED** to:

7.a) **COORDINATE** with the Government Service and Insurance System (GSIS) on how to claim the retirement/separation/monetary benefits of a court employee found to have committed malversation of judiciary funds;

7.b) **PREPARE** a Memorandum of Agreement with the GSIS so the judiciary can rightfully claim the benefit due to the dismissed employee of the Court dispensing with the documentary requirements to answer for the shortages incurred by the erring employees.^[12]

In a Memorandum dated May 24, 2017, Court Administrator Jose Midas P. Marquez adopted the recommendations of the team and submitted it for the Court's approval.^[13]

In her comment,^[14] Veraque claims, among others, that: prior to her assumption of Cashier I position, no turn-over or inventory was conducted to determine past variance which might have been included in the total shortages; her work is limited to receiving various transmittal remitted to her from the cash clerks which were already accompanied by the issued official receipts to which she had no hand in its