

## EN BANC

**[ A.M. No. P-10-2800 [Formerly A.M. No. 10-5-66-MTC], November 18, 2014 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. MRS. AURORA T. ZUÑIGA, CLERK OF COURT II, MRS. MINDA H. CERVANTES, STENOGRAPHER 1, BOTH OF MUNICIPAL TRIAL COURT (MTC) VIRAC, CATANDUANES, AND MR. PEPITO F. LUCERO, INTERPRETER III, REGIONAL TRIAL COURT, BR. 43, VIRAC, CATANDUANES, RESPONDENTS.**

### DECISION

#### PER CURIAM:

For review before the Court is this administrative matter which originated from the financial audit conducted by the Fiscal Monitoring Division (*FMD*) of the Office of the Court Administrator (*OCA*) on the books of account of the Municipal Trial Court, Virac, Catanduanes (*MTC*). The financial review was brought about by the fund shortages discovered by state auditor Madeleine S. Rivera of the Commission on Audit (*COA*) for the period from August 21, 2003 to June 19, 2007 in the amount of P294,797.75.<sup>[1]</sup>

Specifically, the financial audit team examined the books of account of the MTC covering the period from March 3, 1985 to March 31, 2008, under the following accountable officers: Mrs. Aurora T. Zuñiga (respondent), Mrs. Paz T. Tacorda (Tacorda), Mrs. Minda H. Cervantes (Cervantes), Mr. Pepito F. Lucero (Lucero), Mr. Garibaldi L. Sarmiento (Sarmiento), and Ms. Sonia T. Bagadiong (Bagadiong).

The financial audit team reported that these court employees shared the task of acting as Officer-in-Charge/Accountable Officer from 1985 up to the dates of the audit, which are herein summarized:<sup>[2]</sup>

<b>Name of Clerk of Court/Officer-in-Charge</b>	<b>Position (Per CSC Appointment)</b>	<b>Period of Accountability</b>	<b>Fund Audited</b>
Paz T. Tacorda (OIC)	Court Legal Researcher II	Mar. 3, 1985 to Nov. 23, 1987	JDF
Sonia T. Bagadiong (OIC)	Court Stenographer III	Nov. 24, 1987 to Dec. 27, 1987	JDF
Minda H. Cervantes (OIC)	Court Stenographer I	Dec. 28, 1987 to Sep. 28, 1988	JDF
		Jan. 26, 1996 to Jan. 31, 2005	FF
Aurora T. Zuñiga <sup>[3]</sup> (COC)	Clerk of Court II	Aug. 25, 1988 to Nov. 13, 1995	JDF
Pepito F. Lucero	Court Interpreter	Nov. 14, 1995 to	JDF/GF

(OIC)	III	Jan. 25, 1996	
Aurora T. Zuñiga (COC)	Clerk of Court II	Jan. 26, 1996 to Oct. 31, 2006	JDF/GF/SAJF/MF
Garibaldi L. Sarmiento (OIC)	Court Interpreter I	Nov. 1, 2006 to Jul. 9, 2007	JDF/SAJF/MF
Aurora T. Zuñiga (COC)	Clerk of Court II	Jul. 10, 2007 to Mar. 31, 2008	JDF/SAJF/MF
		Feb. 1, 2005 to Mar. 31, 2008	FF

In its Financial Audit Report,<sup>[4]</sup> dated January 28, 2009, the audit team disclosed that Tacorda incurred a shortage of P10.00 from the Judicial Development Fund (JDF); Cervantes, P4,100.00 from the Fiduciary Fund (FF); Lucero, P1,095.00 from the JDF and P600.00 from the General Fund (GF); Sarmiento, P384.00 from JDF and P1,626.00 from the Special Allowance for the Judiciary Fund (SAJF), although said amounts were already restituted on April 25, 2008;<sup>[5]</sup> and Zuñiga a total of P278,811.85, as well as accountabilities from her FF collections. Based on their findings, the audit team recommended that:

I. MRS. PAZ T. TACORDA, Court Legal Researcher II of RTC Branch 43, Virac, Catanduanes, and former Officer-in-Charge of MTC, Virac, Catanduanes be directed to deposit the amount of Ten Pesos (P10.00) to the account of Judiciary Development Fund (JDF), copy furnished the Fiscal Monitoring Division, Court Management Office of the Office of the Court Administrator of the duly validated deposit slip as proof of compliance;

II. MR. PEPITO F. LUCERO, Court Interpreter III of RTC, Branch 43, Virac, Catanduanes, and former Officer-in-Charge of MTC, Virac, Catanduanes, be DIRECTED within ten (10) days from receipt of this notice to:

a) **RESTITUTE** his incurred shortages on the following funds, copy furnished the Fiscal Monitoring Division, Court Management Office of the Office of the Court Administrator of the duly validated deposit slip/s as proof of compliance:

Name of Fund	Period Covered	Amount
Judiciary Development Fund	Nov. 14, 1995-Jan. 25, 1996	P1,095.00
General Fund	Nov. 14, 1995-Jan. 25, 1996	600.00
Total		<b>P1,695.00</b>

b) **EXPLAIN** in writing why he should not be administratively dealt with for failure to deposit his collections to their respective fund bank accounts, which is contrary of the circulars issued by the Court in the proper handling of Judiciary Funds.

III. MS. SONIA T. BAGADIONG and Mr. GARIBALDI L. SARMIENTO, former Officers-in-Charge of MTC, Virac, Catanduanes, after having been audited of their books of accounts which were found to be in order, be CLEARED

from any accountability in so far as their period of accountability as an Officers-in-Charge are concerned.

IV. MRS. MINDA H. CERVANTES, Court Stenographer I and former Officer-in-Charge of MTC, Virac, Catanduanes, be DIRECTED within ten (10) days from receipt of this notice to: a) RESTITUTE her incurred shortage on Fiduciary Fund account in the amount of Four Thousand One Hundred Pesos (P4,100.00) supported by duly validated deposit slip/s as proof of compliance, copy furnished the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator; b) EXPLAIN in writing why she failed to deposit her collections amounting to Forty Nine Thousand Six Hundred Sixty Pesos (P49,660.00), thus, depriving the government of the interests that should have been earned (Annex "D"-Summary of Unreported/Undeposited Fiduciary Fund Collections); and c) EXPLAIN in writing why she should not be administratively dealt with for failure to deposit big/substantial portion of her collections on Fiduciary Fund to its fund bank account.

V. MRS AURORA T. ZUÑIGA, Clerk of Court II of MTC, Virac, Catanduanes, be DIRECTED within ten (10) days from receipt of this notice to:

1. **RESTITUTE** her incurred shortages on the following funds with the duly validated deposit slip as proof of compliance, copy furnished the Fiscal Monitoring Division, Court Management Office of the Office of the Court Administrator:

<b>Name of Fund</b>	<b>Period Covered</b>	<b>Amount</b>
Judiciary Development Fund	Sep. 29, 1988-Nov. 13, 1995	P2,013.90
Judiciary Development Fund	Jan. 26, 1996-Oct. 31, 2006	3,070.40
Special Allowance for the Judiciary Fund	Nov. 11, 2003-Oct. 31, 2006	4,364.20
Fiduciary Fund	Jul. 10, 2007-Mar. 31, 2008	269,363.35
<b>Total</b>		<b>P278,811.85</b>

2. **TRANSMIT** to this Court through the Fiscal Monitoring Division, Court Management Office all the documents (i.e. court orders and acknowledgement receipts of the bondsmen/litigants) to support the validity and authenticity of the withdrawals/refund of cash bonds as enumerated in the attached list of Fiduciary Collections from June 26, 1992 to August 11, 1995 amounting to Two Hundred Thirty Two Thousand Eight Hundred Sixty Pesos (P232,860.00). Failure to provide this Court with the said requirements, the same shall be considered outstanding and unwithdrawn and she will be directed to retribute the aforementioned amount;

3. **EXPLAIN** in writing why she should not be administratively dealt with for failure to report and deposit the following collections in their corresponding fund bank accounts, a clear violation of the circulars and

other issuances of the Court on the proper handling of Judiciary collections, thus:

a. Judiciary Development Fund collections in the amount of Two Thousand Thirteen Pesos and 90/100 Centavos (P2,013.90) and Three Thousand Seventy Pesos and 40/100 Centavos (P3,070.40), which comprised her undeposited collections for the period covering August 25, 1988 to November 13, 1995 and January 26, 1996 to October 31, 2006 respectively;

b. Special Allowance for the Judiciary Fund collections in the amount of Four Thousand Three Hundred Sixty Four Pesos and 20/100 Centavos (P4,364.20); and

c. Fiduciary Fund collections in the amount of Two Hundred Sixty Nine Thousand Three Hundred Sixty Three Pesos and 35/100 Centavos (P269,363.35).

4. **EXPLAIN** in writing why during the period of accountability of Mr. Garibaldi L. Sarmiento as an accountable officer from November 2, 2006 to July 9, 2007, she was collecting legal fees accruing to Judiciary Development Fund and Special Allowance for the Judiciary Fund without the knowledge of Mr. Sarmiento and the fees collected were not reported and deposited, broken down as follows:

For Judiciary Development Fund

<b>Official Receipts Number</b>	<b>Period Covered</b>	<b>Amount</b>
5389101	December 12, 2006	9.60
5389102-109	January 2-23, 2006	76.80
5389110-138	February 8-21, 2006	278.40
5389139-140	May 29, 2006 <sup>[6]</sup>	19.20
<b>Total</b>		<b>384.00</b>

For Special Allowance for Judiciary Fund

<b>Date of Collection</b>	<b>Official Receipts Number</b>	<b>Amount</b>
December 15, 2006	5389101	40.40
January 1-23, 2007	5389102-109	323.20
February 8-21, 2007	5389110-138	1,171.60
May 29, 2007	5389139-140	80.80
July 2007		10.00
<b>Total</b>		<b>1,626.00</b>

5. **SECURE** from the Finance Division and/or from the Accounting Division, Financial Management Office, Office of the Court Administrator certified photocopies of vouchers, checks or any documents that would show that on March 5, 1997, her withheld salary checks and bonuses from January 1996 to February 1997 were applied to her JDF undeposited collections covering the period from September 29, 1988 to November 13, 1995 amounting to Eighty Seven Thousand Seventy Pesos and 89/100 Centavos (P87,070.89).

VI. HON. LORNA B. SANTIAGO-UBALDE, Presiding Judge be DIRECTED to:

1. **ASSIGN** a court personnel to assist Mrs. Aurora T. Zuñiga in going over the records of the court for her to comply with the above directives; and

2. **PROPERLY MONITOR** the financial transactions of Ms. Ma Elviza S. Yuga, designated collecting officer, to ensure strict adherence to circulars and other issuances of the court regarding the proper handling of judiciary funds.<sup>[7]</sup>

Lucero, in his letter,<sup>[8]</sup> dated March 2, 2009, claimed that the amount mentioned in the report was already deposited<sup>[9]</sup> to the account of the court in the Land Bank of the Philippines (*LBP*) on May 19, 2008.

Cervantes, on the other hand, explained in her letter,<sup>[10]</sup> dated March 9, 2009, that her shortage was mainly due to missing reimbursement receipts that she could not locate anymore, which was why she opted to just reconstitute her shortage of P4,100.00 on March 2, 2009 by depositing it in the bank.

In the Memorandum,<sup>[11]</sup> dated April 23, 2010, the OCA adopted the findings of the audit team and recommended that the report be re-docketed as an administrative matter against Zuñiga, Cervantes and Lucero. Thus, in the Resolution of June 23, 2010,<sup>[12]</sup> the Court approved the recommendations of the OCA which are herein reproduced in full, to wit:

1. **RE-DOCKET** the audit report as a regular administrative complaint against Mrs. Aurora T. Zuñiga, Mrs. Minda H. Cervantes and Mr. Pepito F. Lucero for failure to exercise diligence in the performance of their duties as officer of the court, thus, violating the circulars and other issuances of the Court regarding the proper handling of Judiciary collections resulting in the shortages incurred in the different fund accounts of the Court;

2. **PLACE** Mrs. Aurora T. Zuñiga, Clerk of Court II of MTC, Virac, Catanduanes **UNDER PREVENTIVE SUSPENSION** effective immediately and continuing until further orders from this Court for failure to deposit the funds in due time which constitutes gross dishonesty and gross misconduct; and **COMPLY** with the Memorandum of the Court dated 28 January 2009 within fifteen (15) days from notice, otherwise an order of arrest shall be issued against her to be implemented by the National