

## THIRD DIVISION

**[ A.M. No. P-11-3002 (Formerly A.M. No. 11-9-96-MTCC), April 11, 2012 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
MS. ESTRELLA NINI, CLERK OF COURT II, MUNICIPAL TRIAL  
COURT IN CITIES-BOGO, CITY OF CEBU, RESPONDENT.**

### DECISION

**MENDOZA, J.:**

This administrative matter originated from a financial audit conducted by the Office of the Court Administrator (OCA) on the books of accounts of the Municipal Trial Court in Cities, Bogo City, Cebu [formerly Municipal Circuit Trial Court Bogo-San Remigio, Cebu] (MTCC) pursuant to Travel Order No. 37-2011 dated February 17, 2011.

The books of accounts of the MTCC were last audited in September 1995 in view of the retirement of former Clerk of Court, Rosela M. Condor. The audit noted an under-remittance of P367.80 for the Judiciary Development Fund (JDF) account which was already restituted on December 14, 1995.

In this case, the financial audit examination covered the accountability of Estrella Y. Nini (*Nini*) who was appointed as permanent Clerk of Court on February 6, 1996. In a previous audit conducted by the Regional Commission on Audit (RCOA), it appeared that Nini disclosed cash shortages amounting to P125,050.20 for the Fiduciary Fund. The said amount was deposited the next day.

Covering the period from October 1, 1995 to March 31, 2011, the OCA financial audit yielded the following results:<sup>[1]</sup>

a. The cash examination conducted on April 4, 2011 disclosed a shortage of P1,400.00, while undeposited collections of P153,750.00 were deposited to their respective accounts immediately after the cash count.

<sup>[2]</sup>

b. All Supreme Court official receipts requisitioned from the Property Division, Office of Administrative Services (OAS) - Office of the Court Administrator were duly accounted for.<sup>[3]</sup>

c. Anent the Fiduciary Fund, the books of the Clerk of Court revealed an over withdrawal of the cashbond posted in Criminal Case No. 8664 amounting to P30,000.00. When confronted by the audit team, Nini admitted that she inadvertently released the said amount to the bondsman on June 11, 2009. She explained that she immediately called

the attention of the latter, asking that the amount be returned, but the amount was returned on installment. Hence, the amount was fully returned only in March 2011. The full amount, however, was kept inside her vault and was only deposited on April 12, 2011, upon the instruction of the audit team.<sup>[4]</sup>

d. Nini likewise withdrew several forfeited bailbonds including interests from the fiduciary funds during the period of March 31, 2008 to September 30, 2010 amounting to P52,000.00 and P35,665.00, respectively. These were not immediately deposited to the GF-New Account, but rather kept inside the vault. According to Nini, she completely forgot about the envelopes kept inside the vault because of her voluminous office tasks and duties. She also admitted that she did not know to what account she should deposit the same. Again, upon the directive of the audit team, the forfeited bailbonds plus interests were deposited only on April 13, 2011.<sup>[5]</sup>

e. Collections made from February 4, 2011 to March 23, 2011 were only deposited by the Clerk of Court on April 3 and 4, 2011. Nini incurred late deposits for the Fiduciary Fund since 1997 up to present.<sup>[6]</sup>

f. With regard to the Sheriff's Trust Fund (STF), the audit team discovered that Nini failed to collect the mandatory P1,000.00 STF for every civil case filed in court to defray the expenses incurred in the service of summons and other court processes. Nini admitted this and reasoned that no guidelines were issued regarding the said fund.<sup>[7]</sup>

g. The court's file copies of financial reports were organized, orderly and complete, thus, the team had no difficulty in verifying the accuracy and correctness of the court's financial reports. Moreover, all transactions affecting the collections, deposits and withdrawals of the funds maintained by the court were properly recorded in their respective Official Cashbooks.<sup>[8]</sup>

h. Certain overages and shortages were noted in the various court funds, as follows:

*A) Judiciary Development Fund (JDF)*

Total Collections, from 6/1/96 to 3/31/11	P978,433.45
Less: Total Deposits, same period	<u>978,483.45</u>
Balance of Accountability/ Shortage	(P <u>50.00</u> )

The overage of P50.00 was due to the over deposit of collections for the month of March 2011.

*B) Special Allowance for the Judiciary Fund (SAJF)*

Total Collections, from 11/11/03 to 3/31/11	P 568,213.00
Less: Total Deposits, same period	<u>562,498.80</u>

Balance of Accountability/ Over Remittance P 5,714.20

The shortage of P5,714.20 resulted from the following:

Erroneous deposits of SAJF collections to:

GF- New Account	P 2,200.00
GF- Old Account	2,370.00
Undeposited collections (March 2011)	1,175.20
Over-remittances:	
June 20, 2008	(30.80)
Nov. 2010	<u>(0.20)</u>
Total	P 5,714.20

The undeposited SAJF collections over P1,175.00 for March 18-30, 2011 were included in the cash examination and were deposited on April 4, 2011.

*C) General Fund (GF)*

A. New

Total Collections, from 10/14/09 to 3/31/11	P 00.00
Less: Total Deposits, same period	<u>2,200.00</u>
Balance of Accountability/ Overage	<u>(P 2,200.00)</u>

The overage of P2,200.00 is comprised of SAJF collections erroneously receipted and deposited to this fund. The General Fund-New comprises all confiscated bailbonds and earned net interest withdrawn from the Fiduciary Fund account.

B. Old

Total Collections, from 7/1/97 to 3/31/11	P 117,264.80
Shortage	
Less: Total Deposits, same period	<u>119,634.80</u>
Balance of Accountability/Shortage	<u>P (2,370.00)</u>

The overage of P2,370.00 was due to the erroneous remittance of collections to General Fund account instead of remitting the same to the Special Allowance for the Judiciary Fund Account.

*D) Mediation Fund*

Total Collections, from 7/1/05 to 3/31/11	P 251,500.00
Less: Total Deposits, same period	<u>246,000.00</u>
Balance of Accountability/Shortage	<u>P 5,500.00</u>

The shortage of P5,500.00 pertains to March 2011 collections which was deposited on April 5, 2011.

i. The shortages/accountability of Nini was summarized by the audit team in this wise:

<b>Fund</b>	<b>Accountability</b>	<b>Remarks</b>
FF	P 204,000.00	Deposited on 3,4,12 & 15, 2011
STF	0.00	No collection
JDF	(50.00)	Over-remittance
SAJ	5,714.00	Erroneous deposit of SAJ collections
GF-New	(2,000.00)	Erroneous Deposit to GF account
GF-Old	(2,370.00)	Erroneous Deposit to GF account
Mediation	5,500.00	Deposited on April 4, 2011
Total	P 210,794.00	

**Recommendation of the OCA**

In a memorandum dated September 2, 2011,<sup>[9]</sup> the OCA recommended that Nini be:

- a. **SUSPENDED** for **SIX (6) Months**, for incurring cash shortages material in amount;
- b. **FINED** in the amount of **Five Thousand Pesos (P5,000.00)** for delayed remittances of Fiduciary Fund collections which deprived the Court of the possible interest income if the collections were deposited on time; and
- c. **STERLY WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

With respect to Presiding Judge Dante R. Manreal (*Judge Manreal*), the OCA recommended that he be:

- a. **DIRECTED** to **DESIGNATE** an Acting Clerk of Court and he/she be **DIRECTED** to **COLLECT** the mandatory One Thousand Pesos (P 1,000.00) for every case filed in court pursuant to paragraph 2, Section 10 of the Amended Administrative Circular No. 35-2004 and **OPEN** a new account for Sheriff's Trust Fund (STF) transactions with the Land Bank of the Philippines (LBP) under the name of the court, with the Executive/Presiding Judge and OIC/Clerk of Court as authorized signatories.