

EN BANC

[A.M. No. P-04-1813 (FORMERLY A.M. NO. 04-5-119-METC), May 31, 2011]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. NELIA D.C. RECIO, ERALYN S. CAVITE, RUTH G. CABIGAS AND CHONA AURELIA R. RENIEDO, ALL OF THE METROPOLITAN TRIAL COURT, SAN JUAN, METRO MANILA, RESPONDENTS.

D E C I S I O N

PER CURIAM:

This administrative matter stemmed from the financial audit of the Metropolitan Trial Court (MeTC), San Juan, Metro Manila, conducted by the Audit Team of the Court Management Office (Audit Team). The audit covered the accountability period of Clerk of Court Nelia D.C. Recio from February 1985 to December 31, 2003; March 1995 to December 31, 2003 and November 1994 to December 31, 2003, respectively.

The audit revealed discrepancies between the amounts recorded in the cashbook and those reflected in the official receipts. It also discovered, as per sampling of official receipts, that the latter "on its face" appeared to be tampered. These, thus, prompted the Audit Team to conduct a more detailed and comprehensive financial audit on all the books of accounts of the court.

Initial findings revealed that the Clerk of Court has incurred shortages in the following court collections:

Judiciary Development Fund (JDF):

For the period of February 1985 to December 31, 2003 - P 138,101.80

Clerk of Court General Fund (GF):

For the period of March 1995 to December 31, 2003 - P 167,860.64

Fiduciary Fund (FF):

Total collections from November 1994 to December 31, 2003		P 15, 990,202.74
Less: Total withdrawals from January 1995 to December 31, 2003		P 11,330,298.24

Total Unwithdrawn Fiduciary Fund, as of December 31, 2003		P 4,659,904.50
Deduct: Bank Balance as of December 31, 2003	P 2,059,921.51	
Less: Unwithdrawn interest	P 70, 269.29	P 1,989,654.22
Balance of Accountability		P 2,670,250.28^[1]

Other findings include:

- A. Missing Official Receipts particularly: 16226151 and 1637426;
- B. Missing triplicate copies of official receipts used for some JDF collections, particularly: a) 0425807-850; b) 0425851-900; c) 0425901-950; d) 0425951-0426000; e) 3639951-54; f) 3639958;
- C. Cancelled Official Receipts; (duplicate and triplicate copies were likewise not attached to the cashbook);
- D. Confiscated personal bonds of bonding companies amounting to Three Hundred Twenty-Four Thousand Pesos (P324,000.00) were unremitted.^[2]
- E. There were orders sentencing accused to pay fines amounting to a total of ONE HUNDRED TWENTY-FOUR THOUSAND SIX HUNDRED NINETY PESOS (P124,690.00) but were found to be unrecorded;

Moreover, the Audit Team also discovered that certain personnel of the Office of the Clerk of Court (OCC)-MeTC, San Juan were involved in following anomalies, to wit:

As to Nelia D.C. Recio, Clerk of Court

1. Improper use of the official receipts such as some official receipts were issued for two different transactions;^[3]
2. Delay in the reporting of court transactions/collections;^[4]
3. Altered Official Receipts particularly the actual dates;^[5]
4. Non-disclosure of the true amount collected;^[6]
5. Falsifying the cash book;^[7]
6. Falsifying the Monthly Report;
7. Withdrawing cash bonds without the signature/approval of the Executive Judge;
8. Delay in the deposit of court collections;
9. Alterations of public documents such as Affidavit and Acknowledgment Receipt;

10. Reporting the official receipt as cancelled when in truth it was not; [8]
11. Violation of the following Circulars, to wit: a) OCA Circular No. 26-97, par 1 (2); b) OCA Circular No. 22-94, par.1 (4); c) OCA Circular No. 50-95; and
12. Concealment of the infractions of Ariel M. Salazar by depositing the amount of THREE HUNDRED NINETY-NINE THOUSAND SEVEN HUNDRED FIFTY-THREE PESOS & 48/100 (P399,753.48) to cover the shortages Salazar committed.

As to Ariel M. Salazar, former Cash Clerk/Sheriff [9]

1. Tampered official receipts; [10]
2. Issuance of same official receipt number for two different transactions; and
3. Misappropriation of court collections amounting to P768,700.00. [11]

As to Eralyn M. Cavite, Cash Clerk of Court II

1. Tampered official receipts; [12]
2. Altered the actual dates of the collections resulting to the delay in reporting and remittance of court collections; [13]
3. Issuance of the same official receipt number for two different transactions; and
4. Misappropriation of court collections amounting to P13,000.00.

As to Ruth M. Germano-Cabigas, Records Officer 1

1. Tampered official receipts; [14]
2. Altered the actual dates of the collections resulting to the delay in reporting and remittance of court collections; [15] and
3. Misappropriation of court collections amounting to P10,000.00.

As to Chona Aurelia R. Reniedo, Cashier 1

- Altered the actual dates of the collections resulting to the delay in reporting and remittance of court collections; [16]

In view of the foregoing audit findings, the Court, in a Resolution dated May 25, 2004, ordered the following directives:

As to Nelia D.C. Recio, she was required to explain why no administrative charges should be filed against her

1. 1. For misappropriating the following court collections:
 - a.) Judiciary Development Fund collections amounting to ONE

HUNDRED THIRTY-EIGHT THOUSAND ONE HUNDRED ONE PESOS & 80/100 (P138,101.80);

b.) Clerk of Court General Fund collections amounting to ONE HUNDRED SIXTY-SEVEN THOUSAND EIGHT HUNDRED SIXTY PESOS & 64/100 (P167,860.64); and

c.) Fiduciary Fund collections amounting to THREE HUNDRED EIGHTY-ONE THOUSAND SEVEN HUNDRED NINETY-FIVE PESOS & 53/100 (P381,795.53).

2. For willful violation of the SC/OCA Circulars;

3. For failure to present the following:

a.) Duplicate and triplicate copies of cancelled official receipts; and

b.) Missing Official Receipts such as OR # 16226151 and # 1637426.

4. For falsely declaring that an Official Receipt has been cancelled when in fact and in truth it was not;

5. For intentionally delaying the remittances of court collections;

6. For deliberate concealment of Mr. Ariel M. Salazar's grave misconduct.

7. For the missing triplicate copies of the official receipt listed hereunder:

a.) 0425807-850;

b.) 0425851-900;

c.) 0425901-950;

d.) 0425951-0426000;

e.) 3639951-54;

f.) 3639958

8. For issuing Official Receipt No. 10405482 on September 9, 1999 without indicating the name of the payor;

9. For the unauthorized withdrawals due to lack of court orders and acknowledgment receipts.

10. For the unreported fines amounting to ONE HUNDRED TWENTY-FOUR THOUSAND SIX HUNDRED NINETY PESOS (P124,690.00); and

11. For the confiscated cash bonds amounting to THREE HUNDRED TWENTY-FOUR THOUSAND PESOS (P324,000.00) which were never remitted.

Recio was also directed to restitute the shortages incurred in the following funds, to wit:

a.) Judiciary Development Fund amounting to ONE HUNDRED THIRTY-EIGHT THOUSAND ONE HUNDRED ONE & 80/100 PESOS (P138,101.80);

b.) Clerk of Court General Fund amounting to ONE HUNDRED SIXTY SEVEN THOUSAND EIGHT HUNDRED SIXTY & 64/100 PESOS (P167,860.64); and

c.) Fiduciary Fund amounting to THREE HUNDRED EIGHTY-ONE THOUSAND SEVEN HUNDRED NINETY-FIVE & 53/100 PESOS (P381,795.53)

Moreover, Recio was required to deposit to the General Fund Account the amount of Sixty-Five Thousand Eight Hundred Pesos & 29/100 (P65,800.29) representing the unwithdrawn interest of fiduciary fund, under GF Account No. 0012-2222-56 with the LBP.

Meanwhile, Recio was placed under preventive suspension in order to refrain her from intervening with court transactions as well as to avoid the commission of similar offense in the future.

As to Salazar, he was required to pay the Court the amount of SEVEN HUNDRED SIXTY-EIGHT THOUSAND SEVEN HUNDRED PESOS (P768,700.00) found to be the result of the tampering of official receipts. Said amount shall be deducted from Recio's accountability.

As to Cavite, she was required to explain why no administrative sanction shall be taken against her

1. For misappropriating the amount of

- a.) TWELVE THOUSAND EIGHT HUNDRED PESOS (P12,800.00) for supersedeas bond posted by Nicolasa Padilla in Civil Case No 8481; and
- b.) TWO HUNDRED PESOS (P200.00) for the fine paid by Atty. Miranda Obias;

- 2. For concealing the true amount of court collection;
- 3. For deliberate issuance of the same official receipt for two different transactions; and
- 4. For altering the actual dates of collection resulting to the delay in the reporting and remittances of court collections.

Cavite was also directed to restitute the misappropriated court collections amounting to THIRTEEN THOUSAND PESOS (P13,000.00) by depositing Twelve Thousand Eight Hundred Pesos (P12,800.00) to the Fiduciary Fund and Two Hundred Pesos (P200.00) to the Judiciary Development Fund.

As to Cabigas, she was required to explain why no administrative sanction shall be taken against her

- 1. For misappropriating the Judiciary Development Fund collection amounting to TEN THOUSAND PESOS (P10,000.00);
- 2. For the concealment of the true amount of the collection;
- 3. For the deliberate issuance of the same official receipt for two different transaction; and