

## EN BANC

**[ A.M. No. P-06-2287 [FORMERLY A.M. NO. 06-11391-MTC], October 12, 2010 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. MARCELA V. SANTOS, CLERK OF COURT II, MUNICIPAL TRIAL COURT, SAN LEONARDO, NUEVA ECIJA, RESPONDENT.**

### D E C I S I O N

#### PER CURIAM:

The Financial Audit Team of the Office of the Court Administrator (OCA) conducted an audit at the Office of the Clerk of Court (OCC), Municipal Trial Court (MTC), San Leonardo, Nueva Ecija covering the accountability period from April 1, 1997 to May 31, 2006 of Marcela V. Santos, Clerk of Court II (respondent).

The audit team came up with the following findings:

#### I. MISSING OFFICIAL RECEIPTS<sup>[1]</sup>

1. SC O.R. No. I-799-2001-799050
2. SC O.R. No. II-7992051-7992100
3. SC O.R. No. IV-21701401-21701450

#### II. UNSUBMITTED MONTHLY REPORTS OF COLLECTIONS AND DEPOSITS<sup>[2]</sup>

For Fiduciary Fund	May 2003 to June 2003;
	October 2003 to March 2006
For SAJ	November 2004 to March 2006
For JDF	March 2003
	November 2003 to March 2006

#### III. GENERAL FUND (CoCGF)<sup>[3]</sup>

Total Collections - January 1, 1998 to November 10, 2003	P	26,830.40
Total Deposit - January 1, 1998 to November 10, 2003		26,827.40
<b>Balance - Shortage</b>	P	<b>3.00</b>

#### IV. SPECIAL ALLOWANCE FOR THE JUDICIARY FUND<sup>[4]</sup>

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Total Collections November 11, 2003 to May 31, 2006	P	30,066.80
Total Deposit November 11, 2003 to May 31, 2006		10,642.80
<b>Balance - Shortage</b>	<b>P</b>	<b>19,424.00</b>

V. JUDICIARY DEVELOPMENT FUND (JDF)<sup>[5]</sup>

Total Collections - June 1, 1997 to May 31, 2006	P	87,185.00
Total Deposit - June 1, 1997 to May 31, 2006		60,503.80
<b>Balance - Shortage</b>	<b>P</b>	<b>26,681.20</b>

VI. FIDUCIARY FUND<sup>[6]</sup>

Beginning Balance per SUFF date June 19, 1997	P	56,600.00
Add: Total Collections for April 1, 1997 to May 31, 2006		452,600.00
Less: Total Withdrawals for April 1, 1997 to May 31, 2006		178,100.00
Total Unwithdrawn Fiduciary Fund as of May 31, 2006	P	331,100.00
Bank Balance as of May 31, 2006		7,614.65
Less: Unwithdrawn Interest (net of tax 603.70)		2,414.65
Adjusted Bank Balance as of May 31, 2006		5,200.00
Unwithdrawn Fiduciary Fund as of May 31, 2006		331,100.00
Adjusted Bank Balance as of May 31, 2006		5,200.00
<b>Balance of Accountability - Shortage</b>	<b>P</b>	<b>325,900.00</b>

VII. UNSUPPORTED WITHDRAWN CASH BOND<sup>[7]</sup>

Case No.	Name of Litigants	Documents Lacking
84/85-94	Amelia Vallarta	Acknowledgment Receipt
12-95	Francisco Ingal	Court Order
92-99	Eric Garcia	Acknowledgment Receipt Court Order
104-00	Zoilo Ngo	Acknowledgment Receipt
11-03	Nida Manaois	Acknowledgment

VIII. EARNED INTEREST FROM SAVINGS ACCOUNT No. 1531-0427-23  
NOT YET TRANSFERRED TO THE JDF ACCOUNT<sup>[8]</sup>

PERIOD COVERED	GROSS INTEREST	WITHHOLDING TAX	NET INTEREST
30-Jun-99	4.56	0.91	3.65
30-Sep-99	5.23	1.05	4.18
31-Dec-99	-		-
31-Mar-00	52.39	10.48	41.91
30-Jun-00	179.86	35.97	143.89
30-Sep-00	209.52	41.90	167.62
31-Dec-00	210.38	42.08	168.30
31-Mar-01	206.65	41.33	165.32
30-Jun-01	209.78	41.96	167.82
30-Sep-01	188.74	37.75	150.99
31-Dec-01	179.98	36.00	143.98
31-Mar-02	130.68	26.14	104.54
30-Jun-02	107.16	21.43	85.73
30-Sep-02	65.29	13.06	52.23
31-Dec-02	65.42	13.08	52.34
31-Mar-03	136.33	27.27	109.06
30-Jun-03	207.93	41.59	166.34
30-Sep-03	195.54	39.11	156.43
31-Dec-03	146.77	29.35	117.42
31-Mar-04	123.94	24.79	99.15
30-Jun-04	92.38	18.48	73.90
30-Sep-04	87.84	17.57	70.27
31-Dec-04	88.03	17.61	70.42
31-Mar-05	88.54	17.71	70.83
30-Jun-05	29.29	5.86	23.43
30-Sep-05	6.12	1.22	4.90
31-Dec-05	-	-	-
31-Mar-06	-	-	-
<b>TOTAL</b>	<b>P 3,018.35</b>	<b>P 603.70</b>	<b>P 2,414.65</b>

IX. PHILIPPINE MEDIATION FUND<sup>[9]</sup>

Total Collections - August 1, 2004 to May 31, 2006	P 10,000.00
Total Deposit - August 1, 2004 to May 31, 2006	250.00
<b>Balance - Shortage</b>	<b>P 9,750.00</b>

X. SUMMARY OF TOTAL ACCOUNTABILITY<sup>[10]</sup>

For General Fund	P	3.00
For Special Allowance for the Judiciary Fund		19,424.00
For Judiciary Development Fund		26,681.20
For Philippine Mediation Fund		9,750.00
For Sheriff Trust Fund/Process Server's Fee		1,000.00
For Fiduciary Fund		325,900.00
<b>TOTAL</b>	<b>P</b>	<b>382,758.20</b>

Acting on the report and recommendation of the OCA, the Court, by Resolution of January 15, 2007,<sup>[11]</sup> resolved to

1. **REDOCKET** the instant report as regular administrative complaint against Mrs. Marcela V. Santos, Clerk of Court II, Municipal Trial Court, San Leonardo, Nueva Ecija;
2. **DIRECT** Clerk of Court Marcela V. Santos, within ten (10) days from notice, to:
  - a. RESTITUTE the amount of P325,900.00 and P1,000.00 representing her balance of accountability for Fiduciary Fund and Sheriff Trust Fund/Process Server's Fee, respectively;
  - b. WITHDRAW the interest earned on deposits of Fiduciary Fund in the total amount of P2,414.65, deposit the same to the account of the JDF, and submit to the Fiscal Monitoring Division, Court Management Office, OCA, the machine validated deposit slip relative thereto; and
  - c. SUBMIT to the Fiscal Monitoring Division, Court Management Office, OCA, the original copies of the 3 booklets of unaccounted Official Receipts.
3. **SUSPEND** Clerk of Court Marcela V. Santos from the service pending resolution of the administrative matter;
4. **DIRECT** Acting Collecting Officer Ms. Leonida A. Ladisla to strictly comply with all courts circulars and issuances in the proper handling of Judiciary Funds; and
5. **DIRECT** Hon. Rixon M. Garong, Presiding Judge, to study and implement procedures that will strengthen the internal control over cash transactions of the court.

x x x x<sup>[12]</sup> (emphasis in the original; underscoring supplied)

In her March 7, 2007 explanation,<sup>[13]</sup> respondent stated:

x x x x

3. With much apologies, the undersigned is very sorry for the problem of shortages and lost receipts. However, she is not to be blamed in the incident because the same were brought about by the flood caused by numerous typhoons that devastated their province in the year 1998 and 2004;
4. To prove and clear all her accountabilities, the undersigned will be presenting documents, records and other evidence to give light to the shortages. However, if the same does not satisfactorily cover the whole amount of P325,900.00 for Fiduciary Fund and P1,000.00 for Sheriff Trust Fund/Process Server's Fee, she will pay the remaining shortages;
5. As to the original copies of the three (3) booklets of unaccounted Official Receipts, undersigned failed to retrieve all the receipts, after the same were destroyed by flood caused by typhoon. However, she will be presenting all the receipts she had successfully retrieved and will present certifications from those who posted cashbonds that they had released and released the same;

x x x x (underscoring supplied)

The OCA, by Memorandum of August 22, 2007,<sup>[14]</sup> thereupon evaluated the complaint as follows:

x x x x

Based on the Report dated November 14, 2006, of the OCA Audit Team, respondent Santos' summary of accountabilities is as follows:

General Fund	P	3.00
Special Allowance for the Judiciary Fund (SAJF)		19,424.00
Judiciary Development Fund (JDF)		26,681.20
Philippine Mediation Fund		9,750.00
Sheriff Trust Fund/Process Server's Fee		1,000.00
Fiduciary Fund		325,900.00
<b>Total</b>		<b>P382,758.20</b>

The General Fund shortage was restituted by respondent on July 21, 2006.

The SAJF shortage of P19,424.00 was the result of respondent's failure to remit her collections from April 2005 to May 2006, **in violation of**