

EN BANC

[**A.M. NO. P-03-1736 (FOMERLY A.M. NO. 03-7-162-MTC), March 08, 2005**]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
CLERK OF COURT MA. LUISA V. LISING, AND
INTERPRETER/FORMER OIC DELIA C. FERNANDEZ, MUNICIPAL
TRIAL COURT, ANGONO, RIZAL, RESPONDENTS.**

RESOLUTION

PER CURIAM:

This case involves the accountabilities of Maria Luisa V. Lising, Clerk of Court, Municipal Trial Court, Angono Rizal, and Delia C. Fernandez, officer-in-charge/interpreter of the same court, for shortages in their collections of legal fees and deposits of collections for the Judiciary Development Fund and the Court Fiduciary Fund.

Respondent Lising, as Clerk of Court of the MTC, Angono Rizal, was responsible for the legal fee collections of the said Court from September 3, 1999 to October 30, 2000. On November 7, 2000, she went on leave for a period of 16 days ostensibly due to illness but she actually went abroad without permission from the court.

Although Lising's leave expired on November 28, 2000, she never returned to work. Presiding Judge Rosa M. Samson-Tatad was thus left with no choice but to designate respondent Fernandez, the court interpreter, as officer-in-charge (OIC) of the office of the Clerk of Court, effective December 15, 2000. Two weeks later, Mrs. Lising, through her daughter, sent Judge Tatad her resignation letter, effective December 29, 2000. Tatad endorsed this letter to the Office of the Court Administrator (OCA) for appropriate action on January 11, 2001. She did not, however, request an auditor from the Supreme Court to go over Lising's accounts because the representatives of the Commission on Audit had already issued a certificate of settlement and balances (CSB) stating that there were no balances due for any of the accounts held by Mrs. Lising as Clerk of Court. Nevertheless, a subsequent investigation conducted by the audit team of the OCA revealed some anomalies in the said accounts.

ACCOUNTABILITIES OF LUISA V. LISING

The team conducted intensive interrogations of respondent Fernandez and the rest of the staff. They also disclosed Lising's illegal and unsanctioned activities. They further revealed her extravagant lifestyle and the fact that her creditors were already running after her.

Mrs. Lourdes de Borja, her officemate, served as a guarantor for an unpaid bank loan of Lising, with the former's land title as collateral. De Borja had a special

power of attorney to claim Lising's retirement pay as payment for the amount borrowed but she could not claim such benefits due to Lising's uncleared liabilities with the court.

As part of their investigation, the team broke open Lising's office vault, only to find it empty. However, the court's records contained ample evidence of her shortages.

Since the start of collections for the Judiciary Development Fund in February 1985, Lising repeatedly delayed her deposits of collections. She did not deposit her collections in full at the end of each month, in violation of Section 3 of Administrative Circular 5-93^[1] which provides:

3. Duty of the Clerks of Court, Officers-in-Charge or accountable officers.
– The Clerks of Court, Officers-in-Charge of the Office of the Clerk of Court, or their accountable duly authorized representatives designated by them in writing, who must be accountable officers, shall receive the Judiciary Development Fund collections, issue the proper receipt therefor, maintain a separate cash book properly marked CASH BOOK FOR JUDICIARY DEVELOPMENT FUND, **deposit such collections in the manner herein prescribed**, and render the proper Monthly Report of Collections for said Fund (emphasis ours).

According to the subsidiary ledger of the Accounting Division, Financial Management Office, OCA, the January 1987-December 1990 and January 1993-June 1994 reports of collections and deposit, which were supposed to be monthly, were recorded only on a yearly basis, while the period covering January 1991 to December 1992 contained no entries at all. Lising also failed to faithfully record her daily collections in the cashbook. These records were only updated after the OCA sent the checklist of requirements sometime in September 2002, and even then, the audit team found several erroneous entries.

In addition, the team found out that Lising opened several accounts in the name of the Court Fiduciary Fund (CFF), in certain rural banks aside from the Land Bank of the Philippines, in violation of Section 4 of Circular No. 50-95^[2] which provides:

(4) All collections from bailbonds, rental deposits, and other fiduciary collections shall be deposited within twenty four (24) hours by the Clerk of Court concerned, upon receipt thereof, **with the Land Bank of the Philippines** (emphasis ours).

She also made several unauthorized withdrawals from these accounts. She later made deposits of P143,000 and P100,000 in the LBP account as partial restitution after the COA audit revealed shortages amounting to P390,035.60 in her books of accounts.

When Fernandez assumed the functions of OIC clerk of court and the audit team took an inventory of accountable forms, the auditors discovered that several official receipts under Lising's accountability were missing. There was nothing to indicate whether these receipts were ever issued or cancelled.

Finally, the team discovered that Lising's total accountability to the CFF amounted to P152,500, computed as follows:

Balance per Bank		
LBP SA # 2391-0092-39 10/31/00		P195,452.67
Less: Unwithdrawn Net Interest Earned		
08/97-09/00		4,852.67
Adjusted Bank Balance as of 10/31/00		P190,600.00
Unwithdrawn Fiduciary Fund		
(per cashbook) as of 10/31/00		P453,800.00
Balance of accountabilities		
(undeposited collections) as of 10/31/00		P263,200.00
Less: Deposits/Restitutions made on		
24 January 2001	P 4,000.00	
15 February 2001	100,000.00	
13 December 2001	6,700.00	110,700.00
Final Accountability (shortage) as of 10/31/00		P152,500.00

ACCOUNTABILITIES OF DELIA S. FERNANDEZ

In the course of the investigation, the audit team likewise unearthed several anomalies which occurred during respondent Fernandez's service as acting Clerk of Court.

For the entire period of her accountability, no monthly reports of collections and deposits for all funds were ever submitted to the Accounting Division, FMO, OCA. Fernandez also failed to properly deposit collections in accordance with the circulars of the Court. She likewise failed to regularly record her daily collections in the official cash book and to regularly deposit and remit her collections.

Finally, the team found that her total accountability to the CFF amounted to P57,800, computed as follows:

Balance per Bank		
LBP SA # 2391-0092-39 10/31/02		P240,845.59
Less: Unwithdrawn Interest Earned		13,145.59
Adjusted Bank Balance as of 12/31/02		P227,700.00
Less: Deposits/Restitution made by former Clerk of Court Lising on 24 January, 15 February and 13 December 2001		P110,700.00
Total deposits made by Delia Fernandez During her tenure		P117,000.00
Unwithdrawn Fiduciary Fund		
(per cashbook) as of 12/31/02		444,000.00
Balance of accountabilities		P327,000.00
(undeposited collections) as of 12/31/02		