

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
CONCEPCION G. ESPINEDA, CASHIER, COURT OF TAX APPEALS,
RESPONDENT.***A.M. No. CTA-05-2. September 04, 2009*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7be04ea3b1ac/>**PER CURIAM:**

This case stemmed from the report of Court of Tax Appeals (CTA) Presiding Justice Ernesto D. Acosta on certain irregularities in the reporting and handling of legal fees in the possession of respondent cashier. An initial investigation was conducted and a discrepancy of more than P2 million was discovered. Thus, herein respondent was relieved of her collecting and disbursing functions and was temporarily assigned in the Administrative Division of the CTA.

Acting on the report of CTA Presiding Justice Acosta, a financial audit in the CTA was conducted on November 9-19, 2004, covering the period July 1993 to October 2004. The audit team evaluated the internal control on cash management to determine whether the policies and procedures adopted by the CTA provide adequate security over handling of government money and property. The audit team also verified whether collections were correctly and completely recorded in the books of the Accountable Officer and the Subsidiary Ledger maintained by the Accounting Division of the Supreme Court and whether they have been timely deposited with the Land Bank. The accuracy of the computations of the legal fees was likewise determined.

It appears that during the conduct of the financial audit, herein respondent submitted a handwritten letter dated November 12, 2004 stating thus:

Ako si CONCEPCION G. ESPINEDA may asawa at apat na anak nagtatrabaho bilang CASHIER III ng Court of Tax Appeals na ako lahat ang may hawak ng Official Receipts at tumatanggap lahat ng mga nagbabayad ng lahat ng legal fees para sa Court of Tax Appeals.

Na inaamin ko na ako and gumawa ng mga resibo na tampered na iba ang amount sa original kay sa duplicate. Ako rin po and gumagawa ng mga report of collection na pinapadala sa Supreme Court. Ako rin po and nagcertify sa sariling kong report at hindi ko pinacertify kahit kanino. Nagawa ko po itong pagkakasala dahil may nakilala akong kaibigan na ang pangalan po ay si MYRNA CASTRO at inalok ako ng NET WORKING daw na negosyo na hindi ko alam na isang PYRAMID pala. Na hypnotize po siguro ako kung kayat malaking halaga ang nakuha sa akin at it ay umabot siguro sa halagang Dalawang Milyon at kalahati.

Humihingi po ako ng pangalawang pagkakataon para maitama ko kung ano mang mali kong nagawa. Nakahanda po ako magbalik ng halagang nakuha ko sa pamamagitan ng paghulog buwan-buwan sa loob ng isang taon.

Umaasa po ako na diringgin nyo ang aking mga paki-usap sapagkat ako po ay nasa serbisyo ng Court of Tax Appeals sa loob ng dalawamput apat na taon. Ito po lang and opisina na pinagtrabahuan mula po ako ng makatapos sa kolehiyo. Wala po akong masamang record kahit kanino man kayo magtanong sa aking pagkatao.

Ang mga pahayag na ito ay kusa kong ginawa para maipaliwanag ang mga pangyayari na kinasasangkutan ko sa opisina.

Maraming salamat po at binigyan nyo ako ng pagkakataon na makapagpaliwanag.

(Sgd).

November 12, 2004 CONCEPCION G. ESPINEDA

BLOCK-17 LOT-26

EXCISE ST. BIR HOUSING

WEST FAIRVIEW QC

On November 16, 18, 2004, and December 16, 2004, respondent restituted the amounts of P55,601.00, 25,000.00 and 20,000.00, respectively, or a total of P100,601.00.

On February 4, 2005, the audit team submitted its Partial Report which found that there were (a) unaccounted checks; (b) unaccounted official receipts; (c) unreported collections for the Judiciary Development Fund (JDF); and (d) undeposited collections for the JDF. The audit team likewise noted that the procedures and practices in the Cashier's Office did not provide adequate control over financial transactions.

The audit team's findings are herein reproduced as follows:

1. Unaccounted checks on hand during cash count

During the cash count on November 9, 2004, the Acting Cashier, Mr. Adrian P. Manaois presented to the Team the amount turned over by the former Cashier. Included in the cash are checks which cannot be traced to collections from the date of turn over to the date of cash count. Hence, we cannot immediately determine if there is a shortage or overage in the collection. We advised the immediate deposit of the cash and checks presented to us as follows:

FUND

OR NOS.

TOTAL

ACCOUNTABILITY

(Oct. 28 - Nov. 9, 2004)

CASH AND CHECKS PRESENTED

SHORTAGE (Overage)

A

B

A-B

JDF

18938618 to
18938636

52,823.00

46,753.25

6,069.75

SAJ

9726506 to
9726525

5,800.00

5,800.00

0

LRF

1466001 to
1466002

484.09

484.25

(0.16)

VCF

4046155 to
4046180

130.00

130.00

0

Sub-total

59,237.09

53,167.50

6,069.59

Unaccounted checks

1,398,310.40

(1,398,310.40)

TOTAL CASH AND CASH ITEMS PRESENTED

1,451,477.90

2. Unaccounted Official Receipts

There are series of official receipts which were not presented to the Audit Team. Review of case folders reveals the following improper use of official receipts:

a) Triplicate copies of official receipts were blank but included in the Monthly Report of Collections and Deposits. Although the amount reported is the same as that of the amount indicated in the case folders, the following official receipts were not prepared in triplicate copies as prescribed, hence, the amount indicated is of doubtful validity.

10655001

P17,183.00

10655002

50,000.00

10655003

70.00

10655005

29,769.00

10655008

18.00

b) The following series of official receipts were reported as cancelled or missing but when traced to case folders, they were validly issued, resulting to unreported and undeposited collections.

10655637

P34,099.74

10655880

P 96.00

10655009

195.00

10655884

52,801.83

10655800

53,083.62

10655930

4,800.00

10655803

50,300.00

10655961

5,626.19

10655840

33,739.51

10655964

19,022.34

10655855

37,491.93

10655976

5,299.63

c) Triplicate copies of the following official receipts were missing from the booklet and not included in the Monthly Report of Collections but when traced to case folders, they were validly issued, resulting to unreported and undeposited collections.

10655659

P 78.00

10655758

113,600.44

18937582

18,461.97

d) Official Receipt was used twice. Both issuances were not reported.

10655762

P60.00 Per triplicate OR
issued to ACCRA
Law Office

52,300 Per case folder issued to
El Greco Ship Manning

e) Official receipts were part of the series issued for JDF collections but not included in the Monthly Report of Collections. The undetermined amounts collected were not also deposited. (See Annex A for the serial numbers of official receipts)

PERIOD

NO. OF OR's

2002

42

2003

81

TOTAL

123

f) The following series of official receipts contains the same petitioner, with the same case number and amount of legal fees. The first series of official receipts (column A) were presented to the Audit Team and included in the report submitted to the SC Accounting Division. The same were not traced to the case folders. The triplicate copies of the second series of official receipts (column B) were not presented to the audit team and

not included in the monthly report prepared by the Cashier. However, we were able to trace them in the case folders. The amounts (column C) were based on the amounts indicated on the case folders. Hence, we cannot determine the actual collections using these sets of official receipts.

PETITIONER

CASE NO.

DATE

OFFICAL RECEIPTS Reported in Acctg. but did not appear in case folders

OFFICAL RECEIPTS Not reported in Accounting but indicated in case folders as payment for the particular case

AMOUNT

(A)

(B)

(C)

1.

Tropitek Int'l.

6499

6-28-02

10655251

10655207

13,383.00

2.

Sumisitshu

6500

6-28-02

10655252

10655208

28,005.00

3.

Dunlop Slazenger

6501

6-24-02

10655253

10655209

7,705.00

4.

Ironcorn Builders

6502

6-28-02

10655254

10655210

49,800.00

5.

Tekenaka Corp. Phil.

6503

7-01-02

10655255

10655212

6,983.00

6.

Metropolitan Bank

6504

7-02-02

10655262

10655218

49,800.00

7.

Allied Banking

6505

7-03-02

10655263

10655219

49,800.00

8.

Pilipinas Shell Petroleum

6506

7-08-02

10655265

10655221

49,800.00

9.

Hyatt of Hongkong

6507

7-17-12

10655272

10655228

39,975.00

10.

Bristo Myers

6508

7-18-02

10655274

10655230

49,800.00

11.

ECW Joint Ventures

6509

7-18-02

10655275

P890

10655231

49,800.00

12.

Antam Pawnshop

6510

7-18-02

10655276

P1,002.00

10655232

2,425.00

13.

PNB

6511

7-18-02

10655277

10655233

41,060.00

14.

UCPB

6512

7-22-02

10655284

10655240

49,800.00

15.

Applied Food Ingredients

6513

7-23-02

10655285

10655241

49,800.00

16.

Marubeni Phil. Inc.

6514

7-24-02

10655289

10655245

48,415.00

17.

Mirant Phil. Energy

6515

7-24-02

10655290

10655246

49,800.00

18.

Metroplitan Bank

6516

7-12-02

10655291

10655247

4,939.00

19.

Unilever Phils.

6517

7-25-02

10655293

10655249

49,800.00

20.

Gov't. of Singapore

6745

8-11-03

18937401

18937253

31,368.33

21.

St. Lukes Medical

6746

8-11-03

18937404

18937254

118,363.12

22.

Estate of Fidel Reyes

6747

8-12-03

18937407

18937257

51,114.18

23.

Agencia Exquisite

6748

8-14-03

18937413

18937265

1,425.00

24.

Public Estate

6750

8-15-03

18937415

18937268

161,466.62

25.

Takenaka Corp.

6752

8-20-03

18937417

18937272

88,155.38

26.

Lancaster Phil.

6753

8-21-03

18937418

18937275

53,062.46

27.

Alabang Comml.

6754

8-21-03

18937419

18937276

17,043.56

28.

Prudential Bank

6756

8-21-03

18937420

18937278

63,563.14

29.

Orca Energy, Inc.

6757

8-21-03

18937421

18937279

51,958.13

30.

Oakwook Mgt. Service

6758

8-21-03

18937422

18937281

1,526.00

31.

South African Airways

6760

8-28-03

18937428

18937281

16,630.35

32.

Exquisite Pawnshop

6755

8-21-03

18937423

18937282

25,874.24

33.

South African Airways

6759

8-26-03

18937425

18937284

8,363.72

34.

Air New Zealand

6761

8-28-03

18937429

18937288

2,425.00

35.

Takenaka Corp.

6762

8-29-03

18937430

18937289

100,032.97

36.

United Overseas

6764

9-10-03

18937438

18937297

45,050.73

37.

Metropolitan Bank

6765

9-10-03

18937440

18937299

34,877.41

38.

Quezon Power Limited

6769

9-10-03

18937442

18937351

136,171.98

39.

Mem-Mara Phil. Corp.

6770

9-12-03

18937443

18937452

18937352

66,361.32

40.

Dow Chemical, Inc.

6768

9-12-03

18937444

18937353

99,940.43

41.

Dinagat Elec. Corp.

6766

9-12-03

18937446

18937355

4,800.00

42.

Siargao Electric Corp.

6767

9-12-03

18937447

18937356

18,081.14

43.

Texas Instrument

6771

9-15-03

18937449

18937458

18937358

30,915.19

44.

V.Y. Domingo Agencia

6772

9-15-03

18937460

P998.00

18937360

61,450.55

45.

TFS Pawnshop

6773

9-17-03

18937464

18937364

53,887.59

46.

Prulife of UK

6774

9-19-03

18937469

18937369

38,094.21

47.

Pilipinas Shell

6775

9-19-03

18937470

18937370

70,364.93

48.

Tambunting Pawnshop

6776

9-19-03

18937472

18937372

22,654.07

49.

PEA Tollway Corp.

6777

9-19-03

18937474

18937374

171,396.10

50.

Philex Mining Corp.

6778

9-22-03

18937478

18937378

53,187.12

51.

Philex Gold

6779

9-22-03

18937479

18937379

1,425.00

52.

Philex Mining Corp.

6780

9-22-03

18937480

18937380

813,503.81

53.

Bicolandia Drug

6783

9-25-03

18937483

P1,025.00

18937383

14,754.91

54.

Correa Zenitaka

6784

9-26-03

18937486

18937385

51,081.14

55.

Schneider Elec. Industries

6786

9-29-03

18937490

18937389

29,394.39

56.

Mindanao Geothermal

6787

18937493

22,555.86

57.

Mindanao Geothermal

6788

9-30-03

18937497

18937393

28,722.67

58.

CBK Power Co. Ltd.

6789

9-30-03

18937495

18937394

28,467.47

59.

Visayas Geothermal Power

6790

9-30-03

18937496

18937395

5,798.86

60.

CE Cebu Geothermal Power

6791

9-30-03

18937497

18937396

4,800.00

61.

CE Luzon

6792

9-30-03

18937498

18937397

18,247.60

3. Evaluation of procedures and practices in the Cashier's Office did not provide adequate control over financial transactions. We have noted the following deficiencies:

- The relieved Cashier, Ms. Concepcion G. Espineda performed the collecting, recording and reporting of financial transactions of the court. She also acted as the Disbursing Officer of the Court.

Good internal control over cash requires that the collection, disbursement and recording functions should not be performed by one employee. It weakens the effectiveness of check and balance resulting to non-detection of errors in collection and remittance.

- Some computations of legal fees were previously done over the telephone by the Records Division so that petitioners are ready with their check payment upon filing of their petitions. After payment, the details of legal fees paid are indicated on the first page of the petitions using the original copies of the official receipts as reference.

We reviewed the computations of legal fees in each case folder presented to the Team and compare the details of payment indicated on the petitions and the amount paid per triplicate official receipts. There are several cases of discrepancies resulting to underpayment of legal fees, the details of which are found in our finding relative to the accountability of the Cashier.

- Cash payments in big amounts were received by the Cashier which could have led her or tempted her to use her collections for personal gain. Thus, payments in check for filing fees exceeding P5,000 should be firmly implemented to lessen the amount of cash held by the cashier. For payment of P50,000.00 and above, only manager's or cashier's check should be accepted. There should be a written guidelines or procedures to be followed if the private checks are dishonored by the bank for insufficiency of funds or for any other reason.

- The Cashier did not report cancellations of official receipts properly. We have traced several official receipts reported as cancelled and/or missing but were validly issued. Hence, there are collections which were not reported to SC Accounting Division and not deposited to the JDF depository account.

Monthly Report of Accountability for Accountable Forms detailing the series of official receipts received, issued and balances should be submitted to the Accounting Division, Supreme Court. Likewise, a report of cancelled official receipts should be prepared and submitted with the photocopies of the cancelled official receipts. All copies of the cancelled official receipts must be attached to the receipt booklet for proper inventory and audit purposes.

The Presiding Justice issued a Memorandum regarding Internal Control for Cashier's Office and other related offices dated November 11, 2004. Among the issues addressed is the designation of the Acting Cashier as the Collecting Officer and the Cash Clerk as the Disbursing Officer. Also included is the preparation of the Computation Sheet where the details of the assessment are shown vis-à-vis the legal fees paid. It further requires the Executive Clerk of Court or any of her two deputies to verify the computation of the filing fees.

4. Unreported Collections for the Judiciary Development Fund (JDF)

Monthly Report of Collections and Deposits must be regularly prepared and submitted within ten (10) days after the end of every month to the Chief Accountant, Supreme Court with the duplicate copies of the official receipts and validated deposit slips. This report is the basis of recording in the Subsidiary Ledger which keeps

track of the accountability of the accountable officer. Hence, its accuracy is of prime importance. To determine whether all collections are completely and accurately recorded, we compared the total collections per audited triplicate copies of official receipts and the total collections per accounting records. The amounts in the triplicate official receipts were confirmed with the case folder of the particular payment. The audit reveals unreported collections of SEVEN MILLION EIGHT HUNDRED SEVENTY FOUR THOUSAND SIX HUNDRED TWENTY EIGHT PESOS AND 77/100 (P7,874,628.77). Per our review, there are series of official receipts which were reported as missing or cancelled but when traced in the triplicate OR's or case folder, the official receipts were validly issued. Some amounts were altered. Others were erroneously reported. Table I summarizes the amount unreported, the details of which are shown in Annex B.

The reports were prepared by the Cashier alone. Nobody reviewed or certified its correctness before its transmittal to the Supreme Court.

TABLE I

PERIOD

AMOUNT PER
AUDITAMOUNT PER
SUBSIDIARY
LEDGERUNREPORTED
COLLECTIONS

1994

1,493,610.00

1,493,610.00

1995

1,430,046.00

1,430,046.00

1996

1,278,112.85

1,277,512.85

600.00

1997

1,147,233.93

1,147,233.93

1998

2,812,466.14

2,792,666.94

19,799.20
1999
6,591,007.47
6,590,302.47
705.00
2000
7,659,617.82
7,315,834.82
343,783.00
2001
4,724,224.50
4,840,904.50
(116,680.00)
2002
8,832,323.50
7,227,613.56
1,604,709.94
2003
24,490,052.44
21,268,085.74
3,221,966.70
2004
96,726,670.46
93,926,925.53
2,799,744.93
TOTAL
157,185,365.11
149,310,736.34
7,874,628.77

5. Undeposited Collections for the Judiciary Development Fund

Collections were not deposited intact. For the CY 1985 to 1993, where deposit slips were not presented to us, comparison of the amount of collections and deposits as recorded in the SC Accounting Division, show a

balance of P343,302.53 accumulated as follows:

TABLE II

PERIOD

COLLECTIONS PER
ACCOUNTING
RECORDS

DEPOSITS PER
ACCOUNTING
RECORDS

BALANCE

1986

91,070.00

90,995.00

75.00

1987

299,942.00

274,277.00

25,655.00

1988

194,601.00

163,786.00

30,815.00

1989

258,890.00

199,110.00

59,780.00

1990

329,667.00

94,174.50

235,492.50

1991

3,243,923.75

3,245,263.72

(1,339.97)

1992

1,675,057.99

1,670,237.99

4,820.00

1993

1,177,826.00

1,197,086.00

(19,260.00)

TOTAL

7,474,354.74

7,131,312.21

343,302.53

For CY 1994 to August 2004, comparison of the amount in the triplicate copies of the official receipts and the amount deposited as recorded in the Accounting Division, Supreme Court shows a balance of P8,351,276.03.

TABLE III

PERIOD

AMOUNT PER AUDIT

DEPOSITS PER SUBSIDIARY LEDGER

UNREPORTED COLLECTIONS

1994

1,493,610.00

1,495,710.00

(2,100.00)

1995

1,430,046.00

1,404,391.00

25,655.00

1996

1,278,112.85

1,294,372.85

(16,260.00)

1997

1,147,233.93

1,148,266.93

(1,033.00)

1998

2,812,466.14

2,450,332.14

362,134.00

1999

6,591,007.47

6,766,294.47

(175,287.00)

2000

7,659,617.82

7,480,666.02

178,951.80

2001

4,724,224.50

4,892,042.50

(167,818.00)

2002

8,832,323.50

7,172,273.94

1,660,049.56

2003

24,490,052.44

20,643,853.45

3,846,198.99

2004

96,726,670.46

94,085,885.78

2M640,784.68

TOTAL

157,185,365.11

148,834,089.08

8,351,276.03

The totals of Table II and III amounting to EIGHT MILLION SIX HUNDRED NINETY FOUR THOUSAND FIVE HUNDRED SEVENTY EIGHT AND 56/100 (P8,694,578.56) represent the undeposited collections for the Judiciary Development Fund. This amount also includes the unreported collections we mentioned in the preceding finding.

The Presiding Justice and other concerned personnel of the Court of Tax Appeals have been apprised of these discrepancies during the Exit Conference held on November 19, 2004 for purposes of getting their comments to our preliminary observations. Prior to this, in an affidavit prepared by the former Cashier on November 12, 2004 (Annex C) Ms. Concepcion G. Espineda admitted sole responsibility of the infractions committed above. She then restituted the partial amount of ONE HUNDRED THOUSAND SIX HUNDRED ONE PESOS (P100,601.00) on three occasions as evidenced by the acknowledgment receipts of the Acting Cashier and validated deposit slips (See Annex D). The amount was deposited to the Judiciary Development Fund. The Presiding Justice temporarily assigned Ms. Espineda in the Administrative Division of the Court. However, she did not report for work since her relief as Cashier, thus, incurring absences without pay.

Acting on the findings and recommendation of the audit team and the Office of the Court Administrator, the Court issued on February 14, 2005, a Resolution resolving to:

(a) DOCKET the subject partial report of the Financial Audit conducted on the book of accounts of the Court of Tax Appeals as a regular administrative matter against Cashier Concepcion G. Espineda;

(b) DIRECT Cashier Espineda to: (1) EXPLAIN in writing within ten (10) days from notice hereof, her failure to deposit her collections on time; her falsely reporting that an Official Receipt has been cancelled or missing when in fact and in truth it has not been so cancelled or missing, thereby resulting to unreported and undeposited collections; for issuing two sets of official receipts for sixty one (61) payments of filing fees thus concealing the true amounts of court collections; and for issuing one official receipt in two transactions and not reporting the amount collected in both instances; (2) RESTITUTE within ten (10) days from notice, the amount of P8,593,977.56 representing the net collections in the JDF which were not remitted (P8,694,578.56 less restitutions of P100,601.00) by depositing the amount to JDF Account No. 0591-0116-34 with the Land Bank of the Philippines and furnish the Court, thru the Office of the Court Administrator, with machine validated deposit slips as proof of such deposits; and (3) ACCOUNT within ten (10) days from notice, for the missing Official Receipts which are part of the series issued for the JDF found in Annex A;

(c) SUSPEND Ms. Concepcion G. Espineda from Office pending resolution of this administrative matter;

(d) ISSUE a Hold Departure Order against Cashier Concepcion G. Espineda to prevent her from leaving the country;

(e) DIRECT Presiding Justice Ernesto D. Acosta to strictly monitor the financial transactions of the Cashier of the Court of Tax Appeals if the guidelines prescribed by the Court in handling funds are properly implemented and see to it that the responsibility of collecting, recording and reporting of financial transactions shall not be left alone to one (1) personnel; and

(f) DIRECT the Legal Office to file appropriate criminal charges against Ms. Concepcion G. Espineda.

Pursuant to the above Resolution, the Court on February 24, 2005, directed the Commissioner of the Bureau of Immigration and Deportation and the Secretary of the Department of Foreign Affairs to include in their Hold Departure List herein respondent Espineda effective immediately and to enjoin her departure from the country until further orders of the Court.

On March 16, 2005, the Court noted the undated Reply of respondent where she requested for copies of the audit reports to be used as reference in the preparation of her explanation. She also requested that the 10-day period within which to file her explanation be reckoned from the time of her receipt of said copies of audit reports.

In a Resolution dated June 6, 2005, the Court (a) directed the Court Management Office to furnish respondent with all the pertinent schedules and documents relative to said office's initial findings as a result of its financial audit in the books of accounts of the CTA; (b) granted the request of respondent for a period of 10 days within which to explain in writing all the charges against her, counted from receipt of all the requested copies of the audit reports and schedules; and (c) directed said respondent to fully comply with all the directives of the Court in the February 14, 2005 Resolution. The filing of the criminal action against herein respondent was deferred until after the determination of her administrative liability based on the final financial report that will be submitted by the Court Management Office.

In a letter dated October 25, 2005, respondent acknowledged receipt of copies of all pertinent schedules and documents relative to the audit findings furnished her by the Court Management Office. At the same time, she requested for the Office of the Court Administrator to order a review of all the material entries in the audit findings in her presence. She also asked for another extension of 30 days within which to comply with the Court's directives.

On November 23, 2005, the Court granted respondent's request for an extension of 30 days to comply with the directives contained in the February 14, 2005 Resolution of the Court. However, in a letter dated January 31, 2006, respondent again requested for an extension of 30 days within which to review/re-examine the audit findings.

On March 6, 2006, the Court allowed respondent to review/re-examine the material entries in the audit findings. At the same time, she was directed to coordinate with the Fiscal Monitoring Division of the Court Management Office - OCA to facilitate her re-examination of the audit report.

On March 26, 2006, respondent's request for an extension of 30 days within which to review/re-examine the audit findings was again granted by the Court. Notwithstanding said extensions, respondent still failed to coordinate with the Fiscal Monitoring Division of the Court Management Office - OCA. Worse, on June 7, 2006, she again requested for another extension of 30 days.

Consequently, on January 24, 2007, the Court required respondent to show cause why she should not be held in contempt for failure to comply with the Court's directives. At the same time, she was directed to comply with the February 14, 2005 Resolution within five days.

Instead of complying with the show cause order, respondent requested for another 30-day extension which the Court denied considering that she had been given sufficient time to comply. The Court also imposed upon her a fine of P1,000 or a penalty of imprisonment of five days if said fine is not paid. She was likewise directed to comply with the February 14, 2005 Resolution.

On June 1, 2007, respondent paid the P1,000 fine. In a Resolution dated April 9, 2008, the Court required respondent to submit an explanation relative to the accusations against her. Still, respondent did not comply. Instead, she asked for another extension of 30 days which the Court granted but this time with warning that no further extension will be given.

As of March 9, 2009, respondent has failed to submit her explanation hence the Court resolved to deem respondent to have waived the filing of an explanation and to resolve the case on the basis of the pleadings/records already filed and submitted.

Gleaned from the foregoing, it is clear that respondent wasted all the opportunities given to her by this Court to submit an explanation. Despite her unsubstantiated and self-serving assertion of deteriorating health condition and constant bout of hypertension, the Court still showed its benevolence towards her plight by providing her sufficient time to answer the charges against her. However, respondent did not take advantage of this opportunity; instead, she stretched this Court's patience to the limit.

We find respondent guilty of misappropriating judiciary funds - which act constitutes dishonesty and grave misconduct. Respondent did not deny committing the irregularities imputed against her or submit an explanation thereof despite several opportunities given her. In her letter dated November 12, 2004, respondent acknowledged sole responsibility over said infractions and admitted using the missing judiciary funds for her personal gain; she even offered to restitute the undeposited collections. Respondent's offer to restitute the whole amount would not serve to exonerate her from administrative liability; much more in this case where out of the total missing amount of P8,694,578.56, respondent only returned the measly sum of P100,601.00. The infraction had been committed; it could not be erased by mere offer of restitution.

Dishonesty and grave misconduct are classified as grave offenses. Under Section 22(a), (b) and (c) of Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, the penalty for these offenses is dismissal, even if committed for the first time. Respondent's employment record of more than 24 years would not serve to mitigate her liability. On the contrary, it even serves to aggravate the same because with her long years of service in the judiciary, she is presumed to be familiar and conversant with the Court's circulars particularly with regard to the handling of judiciary funds. Yet, by her acts, she disregarded these guidelines and circulars which contributed to the erosion of the public's faith in the Judiciary.

WHEREFORE, premises considered, the Court finds respondent Concepcion G. Espineda, Cashier III, Court of Tax Appeals, GUILTY of dishonesty and grave misconduct. She is hereby ordered DISMISSED from the service with forfeiture of all retirement benefits, excluding accrued leave credits, with prejudice to reemployment in any government office, including government owned and controlled corporations. She is further ordered to RESTITUTE within thirty (30) days from notice, the amount of P8,593,977.56 representing the net collections in the Judiciary Development Fund which were not remitted.

The Employees Leave Division, Office of the Administrative Services of the Office of the Court Administrator, is DIRECTED to compute the balance of respondent's earned leave credits and forward the same to the Finance Division, Fiscal Management Office of the Office of the Court Administrator, which shall compute its monetary value. The amount, as well as other benefits she may be entitled to, shall be applied as part of the restitution of the shortage.

Finally, the Legal Office of the Office of the Court Administrator is AUTHORIZED to file the appropriate criminal charges against respondent Concepcion G. Espineda.

SO ORDERED.

Puno, C.J.,
Quisumbing,
Ynares-Santiago,
Carpio,
Corona,
Carpio Morales,
Chico-Nazario,
Velasco, Jr.,
Nachura,
Leonardo-De Castro,
Brion, Peralta,
Bersamin,
Del Castillo, and Abad, JJ.

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