

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. MRS. ELADIA T. CUNTING, FORMER CLERK OF COURT, OFFICE OF THE CLERK OF COURT, MUNICIPAL TRIAL COURT IN CITIES, ZAMBOANGA CITY,...

A.M. No. P-04-1917 (Formerly A.M. No. 04-10-297-MTCC). December 10, 2007

Ponente: NACHURA, J.

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NACHURA, J.:

This administrative case is the result of the financial audit conducted by the Office of the Court Administrator (OCA) in the Municipal Trial Court in Cities (MTCC) of Zamboanga City, the antecedents of which are as follows:

On September 4, 2003, the OCA received a copy of the letter of Atty. Linda Lim, complaining about the Clerk of Court of the MTCC of Zamboanga City, respondent Eladia T. Cunting, who allegedly caused the delay in the release of the full amount adjudged in favor of her client, and the dishonor of the checks due to insufficiency of funds. This letter-complaint prompted the Fiscal Monitoring Division of the OCA to form an audit team to investigate the financial state of the said court. The team audited the books of accounts of the MTCC of Zamboanga City from September 15 to 19, 2003.

On November 10, 2003, the respondent wrote a letter to Hon. Efren S. Mariano, Executive Judge, MTCC, Zamboanga City, stating as follows:

In anticipation that I will be obliged to answer for the amount of money that have not been fully accounted for as a result of the audit, I wish to request you that said amount be charged to whatever retirement benefits I may be entitled to, including the commutation of all my leave balances accumulated over the years that I was an employee of the Supreme Court of the Philippines.

It may likewise be informed that a number of parties have been coming to my residence, accordingly upon advice of some court employees, seeking the refund of bail bonds posted in the respective cases that these parties were involved in, which cases have been either provisionally or permanently dismissed. For this reason, I thus request that my salaries, which I learned have been held in abeyance, be used to answer for such refund of bail bonds. It may be informed that since payment of my salaries and other remunerations is currently suspended, I am not in a position to personally answer for such refund.[1]

On October 6, 2004, the audit team submitted its report to the OCA. The audit team found that respondent had been remiss in the performance of her duties and that there were massive shortages in the court's funds.

In accordance with the recommendation of the OCA, the Court issued a Resolution[2] dated December 1, 2004, directing the respondent to deposit the amounts of P10,049,496.60 to the Fiduciary Trust Fund account, P972,634.02 to Judiciary Development Fund account, and P117,093.36 to the Special Allowance for Judiciary account. She was also directed to submit the court orders, acknowledgment receipts and other documents showing the unauthorized withdrawals from the said accounts. In the same Resolution, the Court resolved to issue a Hold

Departure Order against the respondent and to suspend her pending the resolution of the case. The Court, likewise, directed the Legal Office of the OCA to file the appropriate criminal charges against the respondent.

In a letter[3] dated January 17, 2005, the respondent asked for an additional period of thirty (30) days within which to comply with the December 1, 2004 Resolution. She averred that she needed additional time to produce the documents required to be submitted and to prepare her answer to the charges imputed to her. The Court granted the request for extension of time. However, the respondent did not submit any document within the extended period.

On July 18, 2005, the Court issued a Resolution[4] directing the respondent to show cause why she should not be disciplinarily dealt with for failure to file her answer and submit the required documents. When the respondent failed to comply, the Court issued another Resolution[5] on December 14, 2005, imposing upon the respondent a fine of P1,000.00, or imprisonment of five (5) days, and requiring her to comply with the previous orders of the Court. Still, the respondent failed to comply. In a Resolution[6] dated March 19, 2007, the Court imposed upon the respondent an additional fine of P2,000.00. She was also directed to show cause why she should not be held in contempt of court for failure to comply with the Court's orders.

Thereafter, the OCA reevaluated the case and reassessed the respondent's liability to include the withdrawals which the respondent failed to substantiate. The OCA reported, thus:

First, the respondent left open the vault. On the day the audit team arrived at the MTCC of Zamboanga City, respondent was attending a seminar in Dipolog City. The audit team noticed that the vault was open making it accessible to any person in court.

Second, the audit team found cash amounting to P10,670.30 stored in the vault. The team had to presume that this amount forms part of the court collections because the source of the money can not be confirmed from the respondent who did not report for work during the entire period of the audit notwithstanding the instruction of Judge Mariano for her to cut short her attendance in the seminar in Dipolog City so she can attend to the needs of the audit team.

Third, there were missing accountable forms. The Office of the Clerk of Court of the MTCC of Zamboanga City requisitioned several booklets of official receipts from this Court which the audit team can not find among the records of the said court. These are:

O.R. Serial Numbers No. of Booklet
Packed/Mailed Date Mailed

80501 to 81000 10 08.01.86

2653001 to 2653500 10 08.13.92

10438951 to 10439000 01 12.16.98

11148051 to 11148100 01 05.19.99

11148901 to 11148950 01 05.19.99

13217801 to 13217850 01 07.14.00

13218551 to 13218750 04 07.14.00

13218801 to 13218850 01 07.14.00

14126101 to 14126250 03 01.31.01

15067151 to 15067250 02 07.31.01

15561151 to 15561250 02 11.07.01

16574151 to 16574250 02 06.04.02

17220501 to 17220800 06 11.07.01

18110151 to 18110250 02 04.23.03

Total 46

Fourth, the audit team found out that the Office of the Clerk of Court of the MTCC of Zamboanga City issued receipts which were not requisitioned from this Court.

Fifth, the audit team discovered a shortage in the collections for the Clerk of Court General Fund in the amount of P116,431.30. The total collections for this fund from November 1996 to June 2003 is P537,069.54. Deducted therefrom is the amount of P493,452.49 representing the amount properly deposited or remitted to the bank. This left an unremitted balance of P43,617.05. The audit team did not consider as valid deposits or remittances those amounts reflected in several deposit slips without any machine validation. These amounted to P72,814.25. Thus, insofar as these amounts are concerned, there are doubts as to whether these deposits were actually made, hence, these have to be treated as unremitted collections and added to the unremitted balance of P43,617.05. The total accountability of respondent is P116,431.30. This is summarized as follows:

Total collections, November 1996 to June 2003 P 537,069.54

Less: Total Remittances/Deposits 493,452.49

Unremitted Collections 43,617.05

Add: Unconfirmed Deposits per Deposit Slips Without
Machine Validations (Schedule 1)
72,814.25

Shortage P 116,431.30

The deposit slips without any machine validation are:

Date Monthly Report Deposit Slip Amount

12-03-96 Nov. 1996 P 3,352.00

01-13-97 Dec. 1996 1,850.00

02-03-97 Jan. 1997 1,535.00

04-10-97 Mar. 1997 8.00

07-07-97 June 1997 1,840.40

11-12-97 Oct. 1997 9,080.00

09-13-99 Aug. 1999 9,000.00

02-02-00 Nov. 1999 3,928.05

2-23-00 Jan. 2000 6,160.00

2-23-00 Jan. 2000 4,309.00

2-23-00 Jan. 2000 2.80
 3-15-00 Feb. 2000 13,725.00
 6-02-00 May 2000 3,333.32
 6-02-00 May 2000 334.68
 11-07-00 Oct. 2000 4,323.92
 11-07-00 Oct. 2000 354.08
 7-18-01 June 2001 3,267.00
 01-08-02 Jan. 2002 3,515.00
 04-21-03 March 2003 2,896.00
 TOTAL P 72,814.25

Sixth, the audit team found out that respondent did not maintain a cash book for the Clerk of Court General Fund for the period of September 1999 to June 2003. The team also noticed that respondent did not regularly submit the monthly reports of collections for the Clerk of Court General Fund. The lacking monthly reports pertain to the months of November 2000, June 2001, October 2002, December 2002, May 2003 and June 2003. As a result, the Accounting Division of this Court was not able to prepare the Subsidiary Ledger for the corresponding months.

Seventh, the audit team noticed numerous mistakes in reporting to this Court the collections in the Clerk of Court General Fund. The team observed discrepancies between the amount indicated in the official receipts and the amount in the monthly reports, to wit:

DATE O.R. NO. AMOUNT PER
 MONTHLY REPORT AMOUNT
 PER OFFICIAL
 RECEIPT SHORT OVER

01-13-00 3782807 1.00 5.00 5.00
 01-17-00 3782822 1.00 2.00 1.00
 01-18-00 3782846 1.00 2.00 1.00
 01-18-00 3782849 1.00 5.00 4.00
 01-19-00 3782855 1.00 10.00 9.00
 02-07-00 3783002 10.00 1.00 (9.00)
 02-08-00 3783017 5.00 250.00 245.00
 02-08-00 3783024 1.00 2.00 1.00
 02-08-00 3783026 2.00 1.00 (1.00)
 02-08-00 3783053 5.00 1.00 (4.00)
 02-17-00 3783100 1.00 10.00 9.00
 02-17-00 3783101 10.00 1.00 (9.00)

02-18-00 3783107 1.00 10.00 9.00
 02-18-00 3783122 5.00 1.00 (4.00)
 02-18-00 3783124 5.00 1.00 (4.00)
 02-22-00 3783178 1.00 2.50 1.50
 02-23-00 3783185 1.00 2.00 1.00
 02-23-00 3781393 2.00 1.00 (1.00)
 02-23-00 3781394 1,970.00 2.00 (1,968.00)
 02-23-00 3781395 1.00 1,970.00 1,969.00
 02-23-00 3781397 2.00 1.00 (1.00)
 02-23-00 3781399 1.00 2.00 1.00
 03-93-00 3783314 1.00 10.00 9.00
 03-07-00 3783356 5.00 1.00 (4.00)
 03-22-00 3783461 4.00 28.00 24.00
 03-22-00 3784533 1.00 5.00 4.00
 03-22-00 3784534 1.00 2.00 1.00
 07-12-00 3784636 48.00 52.00 4.00
 07-19-00 3784718 208.00 68.00 (140.00)
 08-14-00 12356849 2.00 4.00 2.00
 08-14-00 12356850 2.00 4.00 2.00
 08-16-00 12356858 210.00 200.00 (10.00)
 09-14-00 12356972 8.00 4.00 (4.00)
 09-27-00 12356998 2.00 204.00 202.00
 10-04-00 13218778 2.00 399.00 397.00

TOTALS

2,522.00 3,263.00 741.50

Eighth, there was also a shortage in the collections for the Judiciary Development Fund in the amount of P574,927.47. The total collection for this fund from November 1996 to June 2003 is P2,531,283.06. The audit team deducted therefrom the amount of P2,259,358.67 representing the valid remittances/deposits to the bank. This left an unaccounted balance of P271,924.39. The team added to the accountability of respondent the amount of P303,003.08 which was summed up from the deposit slips without any machine validation. Under Administrative Circular No. 3-2000 (June 15, 2000), it was stated that "[d]eposit slips that are not machine validated shall not be considered as deposits." The total shortage was arrived at in this manner.

Total collections, November 1996 to June 2003 P 2,531,283.06

Less: Total Remittances/Deposits 2,259,358.67

Unremitted Collections 271,924.39

Add: Unconfirmed Deposits per Deposit Slips Without
Machine Validations (Schedule 2)
303,003.08

Shortage P 574,927.47

The deposit slips without machine validation are:

Date	Monthly Report	Deposit Slip	Amount
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03-03-97	February 1997	P 7,288.60
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04-03-97	March 1997	242.00
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11-12-97	October 1997	7,270.00
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03-12-98	February 1998	21,218.00
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02-23-00	January 2000	7,760.00
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02-23-00	January 2000	2,197.68
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03-08-00	February 2000	26,366.70
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03-15-00	February 2000	1,327.75
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03-15-00	February 2000	756.15
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04-10-00	March 2000	12,027.00
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06-02-00	May 2000	55,179.35
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06-02-00	May 2000	52.65
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11-07-00	October 2000	5,185.00
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11-07-00	October 2000	128.00
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08-17-01	September 2001	146.00
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11-29-01	November 2001	10,000.00
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01-09-02	December 2001	28,357.39
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02-08-02	January 2002	49,632.00
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03-07-02	February 2002	11,740.60
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09-25-02	September 2002	8,260.60
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10-07-02	September 2002	19,500.25
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12-13-02	November 2002	8,440.00
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03-25-03	March 2003	130.00
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05-05-03	April 2003	9,500.00
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05-05-03 April 2003 5,212.67

05-09-03 April 2003 2,108.46

05-29-03 April 2003 541.23

08-06-03 June 2003 2,435.00

TOTAL

P 303.003.08

The audit team discovered a discrepancy in the amount indicated in a deposit slip. The deposit slip dated August 4, 1998, which was attached to the monthly report for July 1998, showed a deposit of P11,400.00 while the machine validated slip indicated a deposit of P10,958.33 or a difference of P481.67.

The collections for the Judiciary Development Fund were not accurately recorded in the monthly reports. The audit team discovered discrepancies between the amount indicated in the official receipts and those indicated in the cash book, the net effect of which is that the collections reported to the Accounting Division of this Court were understated. These discrepancies are:

DATE	O.R. NO.	AMOUNT PER MONTHLY REPORT	AMOUNT PER OFFICIAL REPORT	SHORT (OVER)
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02-06-97	647427	46.00	96.00	50.00
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02-25-97	647578	10.00	50.00	40.00
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04-07-97	749837	174.00	446.00	272.00
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05-26-97	6641025	0.00	48.00	48.00
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09-02-97	6717806	48.00	10.00	(38.00)
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09-04-97	6717827	50.00	10.00	(40.00)
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09-04-97	6717828	50.00	10.00	(40.00)
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09-04-97	6717831	48.00	10.00	(38.00)
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09-11-97	6717860	48.00	2.00	(46.00)
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11-05-97	6799025	10.00	50.00	40.00
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12-02-97	6799361	48.00	10.00	(38.00)
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12-02-97	6799362	48.00	10.00	(38.00)
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11-17-98	8205617	84.00	116.00	32.00
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11-20-98	8205639	2.00	48.00	46.00
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06-09-00	12355457	232.00	222.00	(10.00)
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06-09-00	12358578	15.00	50.00	35.00
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TOTALS		P913.00	P1,188.00	P275.00
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Still in connection with the Judiciary Development Fund, there was no cash book for the months of January to June 2003. There were no monthly reports for December 1996, November 1997, for the entire year of 1999, November 2000, November and December 2002, and January to June 2003.

Finally, the audit team discovered the biggest shortage in the Fiduciary Fund amounting to P11,338,382.54. This was a result of a variety of irregular transactions. First, cash bail in the total amount of P12,400.00 was released without any supporting court orders authorizing the release thereof. Neither were these accompanied by acknowledgment receipts whereby the accused acknowledges his/her receipt of the released cash bail. These involve three (3) transactions, to wit:

DATE O.R. NO. CASE NO. PAYEE AMOUNT

12-02-96 559919 96-34 E. Teodoro P 4,000.00

03-10-97 647322 39250 A. Garcia 4,200.00

03-10-97 647323 39250 L. Tingkasan 4,200.00

TOTAL P 12,400.00

There were also twenty-six (26) instances wherein the cash bail amounting to P264,000.00 was released without any supporting court orders authorizing the release. These are:

DATE O.R. NO. CASE NO. PAYEE AMOUNT

04-16-97 749661 39712 L. Visitacion P 4,500.00

04-25-00 3784223 42805-815 Atty. S. Sotto, Jr. 90,000.00

06-11-98 8081383 40995-001 T. Kwan 52,500.00

10-24-98 8083093 41541 R. Liguitan 4,500.00

08-18-98 8083105 40893 O. Aizon 1,000.00

11-10-98 8083163 41367 L. Isidro 1,000.00

03-15-99 8206378 41680 L. Rodriguez 7,500.00

02-09-99 8206426 41994 A. Isahac 4,500.00

02-11-99 8206428 41272-73 H. Concepcion 2,000.00

04-15-99 8206554 41965 R. Alfaro 6,000.00

12-07-98 8206605 41669 T. Raz 2,000.00

11-25-99 8403623 41758 P. Bello 1,000.00

11-26-99 8403624 42511-12 E. Canseco 24,000.00

11-25-99 11148923 41758 P. Bello 1,000.00

11-26-99 11148924 42511-12 E. Canseco 24,000.00

01-05-01 13218554 43501 F. Dionisio 4,500.00

01-09-01 13218556 43402 I. Galvez 5,000.00

01-23-01 13218566 43658 V. Alam-alam 7,500.00

02-14-01 13218593 42181 R. Ramasamyalias 2,000.00

02-26-01 13218654 42180-81 R. de Mesa 4,000.00

04-02-01 13218674 35569 R. Luisito 100.00
04-24-02 14126198 44530-31 R. Fernando 4,000.00
03-27-03 17220712 45440 R. Soler 6,000.00
03-28-03 17220713 45470 K. Lukman 6,000.00
04-16-97 749661 39712 L. Visitacion 4,500.00
04-25-00 3784223 42805-815 Atty. S. Sotto, Jr. 90,000.00
TOTAL

P264,600.00

In eleven (11) transactions, cash bail amounting to P237,700.00 was released without any acknowledgment receipt. Since there was no proof that the accused actually received the released cash bail, this amount shall be considered as part of the accountability of the respondent. These transactions are:

DATE O.R. NO. CASE NO. PAYEE AMOUNT

08-19-97 6641702 40140-143 R. Jalandoni P 6,000.00
09-02-97 6641724 39632 M. Akmad 1,000.00
09-08-97 6641730 34895-896 S. Benasing 4,000.00
07-31-97 6641766 39457 L. Dayaganon 2,000.00
08-06-97 6641778 40060 M. Chiong 2,000.00
08-14-97 6641790 30326 N. Polalon 100.00
08-14-97 6641792 40146 C/S Candido 9,000.00
08-19-97 6641800 26201-06 L. Basid 203,000.00
07-11-97 6641822 40002-04 C. Gestoso 6,000.00
09-26-97 6718274 40198-99 P. Perez 4,000.00
01-26-99 8206670 37717 C. Culs 600.00
TOTAL

P237,700.00

Court fines were collected but not remitted to the Fiduciary Fund. This amounted to P321.50, the details of which are:

DATE O.R. NO. CASE NO. PAYEE AMOUNT

09-07-99 3520447 14126 J. Aminula P 110.00
09-07-99 3520448 15141 J. Aminula 110.00
04-22-03 13219738 35694 N. Martinez 101.50

TOTAL

P 321.50

Confiscated cash bail amounting to P554,400.00 were withdrawn from the Fiduciary Fund account but were not remitted to the [J]udiciary [Development] [F]und account.

The audit team discovered that respondent was collecting a fee of 1% for every money received by the court such as cash bail, consignments, rental deposits, etc. However, there are no records that the fees collected were remitted to the bank. The total fees collected by respondent amounted to P219,464.44.

Finally, the audit team computed the total cash bail, supersedeas bonds, consignations and rental deposits that were supposedly unwithdrawn from the bank. This amounted to P10,212,693.75. However, the total balance in the bank accounts maintained by respondent for the MTCC of Zamboanga City is nowhere near this amount. Current Account No. 1952-0007-28 has a balance of only P160,436.55 while Savings Account No. 1951-0113-94 has only P1,761.20 for a total of P162,197.75. This should be deducted from P10,212,693.75 leaving a balance of P10,049,496.60. This represents the amount of unwithdrawn and unaccounted Fiduciary Fund collections for which the respondent is responsible.

All in all, the liability of the respondent for the Fiduciary Fund is P11,338,382.54 which is broken down as follows:

No Court Order and Acknowledgment Receipt P 12,400.00

No Court Order 264,600.00

No Acknowledgment Receipt 237,700.00

Court fines collected but not remitted 321.50

Confiscated Bonds which were withdrawn but Not remitted 554,400.00

Commission on Cash Held in Trust but not Remitted 219,464.44

Unwithdrawn Cash Bond 10,049,496.60

Total Unwithdrawn Fiduciary Fund P 11,338,382.54

Based on the foregoing, the OCA recommended that:

- Ms. Eladia T. Cunting, Clerk of Court, Municipal Trial Court in Cities, Zamboanga City, be FOUND GUILTY of gross neglect of duty, dishonesty and gross misconduct;
- The Financial Management Office, Office of the Court Administrator, be DIRECTED to process the terminal leave benefits of the respondent, dispensing with the documentary requirements, and to remit the said benefit to the Fiduciary Fund account of the MTCC of Zamboanga City;
- Ms. Cunting be FOUND GUILTY of contempt of court for failing to return the missing funds despite repeated demands;
- Ms. Cunting be DIRECTED to reconstitute the following amounts to their respective accounts:
 - P116,431.30 - Clerk of Court General Fund
 - P574,927.47 - Judiciary Development Fund
 - P10,899,019.03[7] - Fiduciary Fund

- Director Nestor M. Mantaring, National Bureau of Investigation, be DIRECTED to cause the arrest of Ms. Eladia T. Cunting and to detain her until she complies with the directive of this Court to reconstitute the above-mentioned shortages.

The findings and recommendations of the OCA are well taken.

The administration of justice is circumscribed with a heavy burden of responsibility. It requires everyone involved in its dispensation -- from the justices and judges to the lowliest clerks -- to live up to the strictest standards of competence, integrity and diligence in the public service.[8] As frontliners in the administration of justice, they should live up to the strictest standards of honesty and integrity. They must bear in mind that the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work there.[9]

Clerks of court, in particular, must be individuals of competence, honesty and probity, charged as they are with safeguarding the integrity of the court and its proceedings.[10] They perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises.[11] As such, they are responsible for ensuring that the court's funds are promptly deposited with an authorized government depository bank. Thus, they are liable for any loss, shortage, destruction or impairment of such funds and property.[12] This Court will not countenance dishonesty and malversation, for these offenses diminish the faith of the people in the Judiciary.[13]

The respondent failed to live up to these exacting standards. She had been grossly negligent in her duties as shown by the following incidents: (1) she left open the court's vault while attending a seminar in Dipolog City; (2) she left P10,670.30 inside the vault; (3) forty-six (46) booklets of official receipts were missing; and (4) she used receipts not requisitioned from the Property Division of the OCA.

Her most serious infractions were the shortages in the Clerk of Court General Fund, Judiciary Development Fund, and the Fiduciary Fund, which amounted to P12,029,741.31. Several irregularities contributed to the accumulation of these shortages: (1) respondent did not deposit some amount of the court's collections as shown by deposit slips which were not machine validated by the bank; (2) monthly reports were not regularly submitted to the Court; (3) reports submitted to the Court contained numerous discrepancies between the amounts reported and the amounts appearing in the official receipts, deposit slips or cash books; (4) she did not maintain a cash book for the Judiciary Development Fund; (5) respondent withdrew cash bail from the Fiduciary Fund without court orders or without any acknowledgment receipts; (6) fines imposed on the cash bail were not remitted; (7) confiscated cash bails were not remitted to the Judiciary Development Fund; and (8) respondent did not remit the 1% commission she collected on money received by the court.

The fact that respondent failed to exert any effort to defend herself from the charges against her exacerbates her predicament. The natural instinct of a man is to resist an unfounded claim or imputation and defend himself, for it is totally against human nature to remain silent and say nothing in the face of false accusations. Silence, in such cases, is almost always construed as an implied admission of the truth thereof. Thus, in the absence of any compelling reason to hold otherwise, we take respondent's silence as a waiver to file her comment and an acknowledgment of the truthfulness of the charges against her.[14]

Worse, she had effectively admitted her accountability for the shortages in the court's funds when she wrote the letter to Judge Mariano requesting that her accrued leave credits be used to answer for any amount which the audit team would find unaccounted for. Dishonesty, particularly that which amounts to malversation of public funds, will not be tolerated. Otherwise, courts of justice may come to be regarded as mere havens of thievery and corruption.[15]

The seriousness of respondent's infractions amounts to gross neglect of duty, dishonesty and grave misconduct, and merits dismissal from the service. However, on July 26, 2007, the Court already dismissed respondent from

the service also for gross dishonesty and grave misconduct with forfeiture of all benefits, except accrued leave credits, and with prejudice to reemployment in the government service.[16] Nonetheless, this does not render the case moot.[17] Respondent cannot avoid administrative liability by her previous dismissal from the service. For this case involving additional serious offenses, in lieu of dismissal from the service, the Court finds it proper to impose on her a fine of P40,000.00 to be deducted from her accrued leave credits.

The recommendation to hold the respondent in contempt of court is likewise warranted. Indifference to the Court's Resolutions requiring the production of certain documents makes respondent guilty of contempt of court. Such cavalier attitude disregards the duty of every employee in the Judiciary to obey the orders and processes of this Court without delay.[18] When the contempt consists in the refusal to do an act which is still within the power of respondent to perform, she may be imprisoned by order of the court until she performs it.[19]

WHEREFORE, respondent Eladia T. Cunting is found GUILTY of gross neglect of duty, dishonesty and grave misconduct. In view of her previous dismissal from the service, a FINE in the amount of P40,000.00 is imposed on respondent to be deducted from her accrued leave credits.

Respondent is further ordered to RESTITUTE the following amounts to their respective accounts:

- a. P116,431.30 - Clerk of Court General Fund
- b. P574,927.47 - Judiciary Development Fund
- c. P11,338,382.54 - Fiduciary Fund

The Employees' Leave Division, Office of Administrative Services-OCA, is likewise DIRECTED to compute the respondent's earned leave credits and to forward it to the Finance Division, Fiscal Management Office-OCA, which shall compute the money value of the balance, as well as other benefits that she may be entitled to, to be included as payment of the fine and partial restitution of the computed shortages.

In addition, the respondent is found GUILTY of contempt of court for her failure to comply with the Court's orders. For this reason, the National Bureau of Investigation is DIRECTED to cause the arrest of respondent Eladia T. Cunting and to detain her until she complies with the directive of this Court to reconstitute the balance of the shortages, after deduction of the balance of her accrued leave credits.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., and Reyes, JJ., concur.

[1] Rollo, p. 46.

[2] Id. at 185-189.

[3] Id. at 198.

[4] Id. at 215.

[5] Id. at 218.

[6] Id. at 250.

[7] The OCA deducted from the total shortage of P11,338,382.54 the respondent's accrued leave credits of 395.815, which has the money value of P439,363.51.

[8] In Re: Report on the Judicial and Financial Audit Conducted in the Municipal Trial Court in Cities, Koronadal City, A.M. No. 02-9-233, April 27, 2005, 457 SCRA 356, 369.

[9] Office of the Court Administrator v. Nacuray, A.M. No. P-03-1739, April 7, 2006, 486 SCRA 532, 539-540.

[10] Report on the Financial Audit Conducted at the Municipal Trial Courts of Bani, Alaminos, and Lingayen, in Pangasinan, 462 Phil. 535, 544 (2003)

[11] In Re: Report on the Judicial and Financial Audit Conducted in the Municipal Trial Court in Cities, Koronadal City, *supra* note 8, at 374.

[12] *Id.*

[13] *Id.* at 373.

[14] Re: Complaint Against Atty. Wilfredo B. Claveria for Misappropriation of Judiciary Funds, A. M. No. P-02-1626, July 7, 2004, 433 SCRA 495, 500.

[15] Office of the Court Administrator v. Nacuray, *supra* note 9, at 542.

[16] Alenio v. Cunting, AM. No. P-05-1975, July 26, 2007.

[17] See Sibulo v. San Jose, A.M. No. P-05-2088, November 11, 2005, 474 SCRA 464, 471.

[18] Office of the Court Administrator v. Nacuray, *supra* note 9, at 541.

[19] RULES OF COURT, Rule 71, Sec. 8.

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