

IN-HOUSE FINANCIAL AUDIT, CONDUCTED IN THE BOOKS OF ACCOUNTS OF KHALIL B. DIPATUAN, RTC-MALABANG, LANAOS DEL SUR.

A.M. NO. P-06-2121 (Formerly OCA A.M. No. 05-12-746-RTC). June 26, 2008

Ponente: AZCUNA, J.

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AZCUNA, J.:

This administrative matter stemmed from an in-house financial audit conducted on the books of account of Khalil B. Dipatuan, Clerk of Court VI of the Regional Trial Court of Malabang, Lanao del Sur on October 15, 2003 by the Office of the Court Administrator (OCA), in view of the expiration of his appointment. The audit covered the period from January 1, 2002 until October 31, 2003.

Based on the documents submitted, the following balances resulted in the reconciliation of the different judiciary funds, to wit:

A. General Fund

Total Collections P 14,832.50

Less: Total Remittances 14,836.50

Balance of Accountability (Over-remittance) P (4.00)

B. Sheriff's General Fund

Total Collections P 1,042.00

Less: Total Remittances 1,042.00

Balance of Accountability (Over-remittance) P 0.00

C. Judiciary Development Fund

Total Collections P 104,978.00

Less: Total Remittances 105,331.05

Balance of Accountability (Over-remittance) P (353.05)

D. Fiduciary Fund

Unwithdrawn Fiduciary Fund, as of 12-31-01 P 15,000.00

Add: Total Collections 127,000.00

Total P 142,000.00

Less: Total Withdrawals 87,000.00

Unwithdrawn Fiduciary Fund, as of 10-31-03 P 55,000.00

Less: Bank Balance, as of 10-31-03 56,000.00

Balance of Accountability (Excess Cash) P (1,000.00)

In a Memorandum dated November 25, 2005, the OCA submitted to the Chief Justice a report on the Financial Audit on the Books of Accounts of Dipatuan. The OCA found that Dipatuan did not incur any accountability, but made over-remittances instead, as shown in the above computations. This was the result of Dipatuan's practice of not depositing his collections on time, thus depositing a wrong amount, in violation of the following provisions, viz:

- Section 21 of the New Government Accounting System (NGAS)

"All collecting officers shall deposit intact all their collections, as well as collections turned over to them by sub-collectors/tellers, with the Authorized Government Depository Bank (AGDB) daily or not later than the next banking day."

- Administrative Circular No. 3-2000

"The daily collections for the Judiciary Development Fund in the 1[st] and 2[nd] level courts shall be deposited everyday with the nearest LBP branch for the account of the Judiciary Development Bank, Supreme Court, Manila - Savings Account No. 0591-0116-34 or if depositing daily is not possible, deposits for the Fund shall be at the end of every month, provided, however, that whenever collections for the Fund reach P500.00, the same shall be deposited immediately even before the period above indicated."

The OCA report continues:

Further, personal postdated checks of Mr. Dipatuan were deposited with the Fiduciary Fund account of the court with LBP Savings Account No. 3381-0108-71, an account which should be used only for Fiduciary Fund transactions. This enables him to withdraw the amount of a postdated check even before its maturity date from the current balance of the Fiduciary Fund account of the court. This is tantamount to encashment of personal checks from the collections of the court, in violation of a provision of Administrative Circular No. 3-2000, which states:

"Collections shall not be used for encashment of personal checks, salary checks, etc. xxx..."

Finally, the Court Administrator recommended that:

x x x this report be DOCKETED as a regular administrative complaint against Mr. Khalil B. Dipatuan and that he be FINED in the amount of P5,000.00 for not remitting his collections on time and for depositing personal postdated checks to the Fiduciary Fund account of the court in violation of Administrative Circular No. 3-2000, the amount to be deducted from his terminal leave pay, the remainder to be released to Mr. Dipatuan subject to usual clearance requirements.

In a Resolution dated February 13, 2006, the Court redocketed the matter as a regular administrative case against Dipatuan.

We agree with the findings and recommendations of the OCA.

Dipatuan is clearly administratively liable for his actions. As held in *Soria v. Oliveros*,^[1] clerks of court are officers of the law who perform vital functions in the prompt and sound administration of justice. Their office is the core of adjudicative and administrative orders, processes and concerns. They perform delicate functions as designated custodians of the court's funds, revenues, records, properties and premises. As such they are generally also treasurers, accountants, guards and physical plant managers. They are liable for any loss, shortage, destruction or impairment of such funds and property.

Supreme Court Administrative Circular No. 5-93^[2] provides the guidelines for all Clerks of Court concerning the proper administration of court funds. This circular mandates that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank.

Furthermore, Supreme Court Administrative Circular No. 5-93 provides that collections for the Judiciary Development Fund (JDF) shall be deposited every day with the local or nearest branch of the Land Bank of the Philippines (LBP). If depositing daily is not possible, deposits for the judiciary fund shall be every second and third Fridays and at the end of every month. In case the collections reach P500, the same shall be deposited immediately even before the days indicated. When there is no LBP branch at the station of the judge concerned, the collections shall be sent by postal money order payable to the Chief Accountant of the Supreme Court, at the latest before 3:00 P.M. of the particular day of the week. A separate "Monthly Report of Collections" shall be regularly prepared for the JDF, which shall be submitted to the Chief Accountant of the Supreme Court within ten (10) days after the end of every month, together with the duplicate of the official receipts issued during such month covered and validated copy of the Deposit Slips.^[3]

It is the duty of clerks of court to perform their responsibilities faithfully, so that they can fully comply with circulars on deposits of collections. They are reminded to deposit immediately, with authorized government depositories, the various funds they have collected, because they are not authorized to keep those funds in their custody.^[4]

Failure to fulfill these responsibilities deserves administrative sanction, and not even the full payment or over-remittance, as in this case, will exempt the accountable officer from liability.

Delay in the remittances of collections constitutes neglect of duty.^[5] Further, we held that the failure to remit on time judiciary collections deprives the court of interest that may be earned if the amounts are deposited in a bank.^[6] Under the Civil Service Rules and the Omnibus Rules implementing it, simple neglect of duty is a less grave offense penalized with suspension for one month and one day to six months for the first offense; and dismissal for the second offense.

However, since Dipatuan had retired from the service, and this is his first infraction, we find in order the Court Administrator's recommended penalty of P5,000.00 by way of a fine.

WHEREFORE, Khalil B. Dipatuan, Clerk of Court VI of the Regional Trial Court of Malabang, Lanao del Sur, is found GUILTY of simple neglect of duty and FINED P5,000. Let the retirement benefits of respondent Khalil B. Dipatuan be released immediately, subject to the deduction of the P5,000 fine and the usual clearances.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Leonardo-De Castro, JJ., concur.

[1] A.M. No. P-00-1372, May 16, 2005, 458 SCRA 410, 422; citing Re: Misappropriation of the Judiciary Fund Collections by Ms. Juliet C. Banag, Clerk of Court, MTC, Plaridel, Bulacan, A.M. No. P-02-1641, 20 January 2004, 420 SCRA 150, Reyes-Domingo v. Morales, A.M. No. P-99-1285, 04 October 2000, 342 SCRA 6, Escañan v. Monterola II, A.M. No. P-99-1347, 06 February 2001, 351 SCRA 228, Gutierrez v. Quitilig, A.M. No. P-02-1545, 02 April 2003, 400 SCRA 391, Re: Initial Report on the Financial Audit Conducted in the Municipal Trial Court of Pulilan, Bulacan, A.M. No. 01-11-291-MTC, 07 July 2004, 433 SCRA 486.

[2] Issued on April 30, 1993.

[3] Ibid.

[4] Office of the Clerk of Court v. Bernardino, A.M. No. P-97-1258, January 31, 2005, 450 SCRA 88, 111; citing Re: Withholding of Other Emoluments of the Following Clerks of Court: Elsie C. Remoroza, et al., A.M. No. 01-4-133-MTC, August 26, 2003, 409 SCRA 575, 583.

[5] Report on the Financial Audit on the Books of Accounts of Mr. Delfin C. Polido, Former Clerk of Court of Municipal Circuit Trial Court, Victoria-La Paz, Tarlac, A.M. No. 05-11-320-MCTC, February 17, 2006, 482 SCRA 571, 576, citing Re: Withholding of Other Emoluments of the following Clerks of Court: Elsie C. Remoroza, et al., A.M. No. 01-4-133-MTC, August 26, 2003, 409 SCRA 574, 584.

[6] Id. at 576, citing Sollesta v. Mission, A.M. No. P-03-1755, April 29, 2005, 457 SCRA 519, 534.

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