

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ASHARY M. ALAUYA, CLERK OF COURT VI, SHARI'A DISTRICT
COURT, MARAWI CITY, LANA O DEL SUR, RESPONDENT.**

A.M. No. SDC-14-7-P (Formerly A.M. No. 14-09-01-SC). December 06, 2016

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-14-09-01/>

PER CURIAM:

This administrative matter stemmed from the financial audit conducted on the books of accounts of the Shari'a District Court (SDC), Marawi City, Lanao del Sur, covering the period of 1 March 1992 to 28 February 2003 and 1 March 2005 to 31 August 2013.

The financial audit on the books of accounts of Mr. Ashary M. Alauya[1] (Mr. Alauya), Clerk of Court VI, SDC, Marawi City was conducted upon the recommendation of the Legal Office[2] and the request of the Accounting Division, Financial Management Office (FMO),[3] both in the Office of the Court Administrator (OCA), for failure of the aforesaid court to submit monthly financial reports despite several notices and due to the anonymous letter-complaint filed against its clerk of court.

The primary objective of the audit was to determine the accuracy and regularity of the cash transactions of the SDC, Marawi City and whether all the judiciary fund collections have been deposited in full within the prescribed period. The audit was also for the purpose of examining whether the filing fees collected are in accordance with Rule 141 of the Rules of Court. It was also an opportunity to apprise the clerk of court concerned on proper bookkeeping and accounting of the court's judiciary funds.

The judiciary funds being collected by the court are the Fiduciary Fund (FF), Sheriff's Trust Fund (STF), Judiciary Development Fund (JDF), Special Allowance for the Judiciary Fund (SAJF), General Fund-Old (GF--Old), Sheriff's General Fund (SGF), Mediation Fund (MF) and Legal Research Fund (LRF).

After the examination of all available documents of SDC of Marawi City, the audit team made the following findings and observations, to wit:

I. Cash Count

Mr. Alauya was not in the Office of the Clerk of Court (OCC), SDC, Marawi City when the audit team arrived on 2 September 2013. Hence, the team asked the staff to contact Mr. Alauya and require him to report for work to witness the conduct of the financial audit on his books of accounts. The team, however, was only able to talk, over the phone, to Mr. Alauya's wife and she informed the team that Mr. Alauya was out of town.

Nevertheless, the team proceeded with the examination and found that the court's accountable forms and financial records were in the custody of Ms. Alejandra L. Guro (Ms. Guro), while the court collections were allegedly in the possession of Mr. Alauya. Verification of relevant documents disclosed that the collections, with a total amount of One Hundred Four Thousand Eight Hundred Fifty-Two Pesos (P104,852.00), covering the period from 23 January 2013 to 15 August 2013 were unremitted as of the cash count date.

The team checked the office drawer of Mr. Alauya, in the presence of Ms. Guro and Mr. Ibrahim M. Umungan, Clerk IV, same court, to look for the aforesaid cash balances but these were nowhere to be found. Hence, the team charged the P104,852.00 as the initial cash shortage incurred in the cash count conducted.[4]

On 3 September 2013, Mr. Alauya appeared in the office and presented to the team the deposit slips of his remittances to the JDF, SAJF and LRF, in the amount of One Thousand Eight Hundred Seventy-Four Pesos (P1,874.00), Two Thousand Nine Hundred Twenty-Six Pesos (P2,926.00) and Fifty-Two Pesos (P52.00), respectively, all dated 3 September 2013.[5] When Mr. Alauya was asked about the One Hundred Thousand Pesos (P100,000.00) unremitted Fiduciary Fund collection, he alleged that the amount was kept in their house as the court has no existing trust fund account with the Land Bank of the Philippines (LBP). Right away, the team directed Mr. Alauya to bring the P100,000.00, allegedly kept in his house, but the latter failed to return to the court to turn over the unremitted amount. His failure gave rise to the presumption of malversation of public funds.

The succeeding days of examination were conducted in the Halls of Justice (HOJ), Iligan City due to the volatile situation in Marawi City, in line with Office Memorandum dated 30 July 2013.[6] On 5 September 2013, a staff from SDC, Marawi City called by telephone and informed the audit team that Mr. Alauya is in their office with the P100,000.00. Over the phone, the team leader instructed Mr. Alauya deposit the money in the City Treasurer's Office (CTO) or in the OCC, Regional Trial Court (RTC), Marawi City, considering that they do not have an existing account with the LBP and cannot instantly open an account without their judge, who was officially in RTC, Malabang, Lanao del Sur. Mr. Alauya refused to follow the instructions of the audit team because he claimed that he doesn't trust the aforesaid offices. He insisted on depositing the money only to the LBP. For this reason and for the immediate remittance of the P100,000.00, the team advised Hon. Rasad G. Balindong (Judge Balindong), Acting Presiding Judge, over the phone, to immediately relieve Mr. Alauya as financial custodian of the court and in his stead designate an Officer-in-Charge (OIC) who can properly and effectively manage the judiciary funds.

Accordingly, Judge Balindong designated Ms. Guro as financial custodian to handle the financial transactions of SDC, Marawi City, effective 6 September 2013.[7] Along with the Office Order is a directive to Mr. Alauya to immediately turn-over all unremitted collections to Ms. Guro. Consequently, on 10 September 2013 Mr. Alauya turned-over the P100,000.00 to Ms. Guro, who subsequently deposited the same to the OCC, RTC, Marawi City, as evidenced by the Official Receipt[8] issued by the said office.

II. Inventory of Used and Unused Official Receipts

Based on the list of Official Receipts (ORs) requisitioned from the Property Division, Office of the Administrative Services (OAS), OCA,[9] the following ORs are unaccounted for and were not found in the office files, to wit:

- a) 2344251 - 2344300 h) 2344601 - 2344607
- b) 2344301 - 2344350 i) 2344651 - 2344654
- c) 2344351 - 2344400 j) 2344776 - 2344800
- d) 2344403 - 2344450 k) 166851 - 166858
- e) 2344501 - 2344550 l) 2344734, 2344735, 2344739
- f) 2344551 - 2344600 m) 18590902
- g) 2344451 - 2344486

The missing ORs, particularly 2344251-2344400; 2344501-2344600; and 2344651-2344654 were also included in Administrative Matter No. 02-4-03-SDC, previously filed against Mr. Alauya, where he was found guilty of gross neglect of duty in the custody of court property and was suspended for eighteen (18) months.[10]

III. Filing Fees

In view of the unaccounted ORs and the possibility of its issuance in the collection of filing fees, the audit team conducted an examination of all available case records of the SDC, Marawi City. Accordingly, the team found discrepancies on some original ORs of filing fees and Legal Fees Forms (LFF) attached to the case records from 2003 to the present. The LFF data gathered were compared with the available triplicate and original copies of ORs. It was found out that several OR numbers were used in two (2) different transactions. It also disclosed that the LFF was falsified to make it appear that the filing fees were properly receipted. Mr. Alauya assigned receipt numbers in the LFF even without actual issuance of OR. As evidenced by the copy of ORs and LFF on file, Mr. Alauya received payments of filing fees for Civil Case Nos. 132-10, 140-10, 126-10, 136-10, 141-10, 162-11, 153-10, 169-11, 179-11, 185-11, 187-12 and 194-12. Instead of issuing ORs, he assigned spurious ORs in the LFF, using either an already issued or unissued OR. The schedules of payments are hereunder presented as evidence of the anomaly:

SCHEDULE 1 - Falsified LFF for Case No. 132-10[11]

OR#

Data per OR

Falsified LFF - Case# spl 132-10

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590696

B. Amintao

3.15.10

SAJ

1,600.00

M. Marohom

3.25.10

SAJ

1,432.00

18590697

SAJ

288.00

SAJ

144.00

18591059

JDF

112.00

JDF

568.00

18591060

S. Abdulsamad

3.8.10

JDF

624.00

JDF

56.00

0223732

B. Pangcatan

5.5.10

LRF

387.00

LRF

20.00

TOTAL

3,011.00

2,220.00

SCHEDULE 2- Falsified LFF for Case No. 140-10[12]

OR#

Data per OR

Falsified LFF - Case# 140-10

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590703

A. Sabra

8.13.10

SAJ

1,432.00

A. Malawani

7.5.10

SAJ

1,432.00

18590704

SAJ

144.00

SAJ

144.00

18591066

JDF

568.00

JDF

568.00

18591067

JDF

56.00

JDF

56.00

0223734

I. Ansano

6.24.10

LRF

20.00

LRF

20.00

TOTAL

2,220.00

2,210.00

SCHEDULE 3- Falsified LFF for Case No. 126-10[13]

OR#

Data per OR - Case# spl 128-10

Falsified LFF - Case# spl 126-10

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590692

M. Balenti

2.24.10

SAJ

1,432.00

D. Tambilawan

1.13.10

SAJ

1,432.00

18590693

SAJ

144.00

SAJ

144.00

18591055

JDF

568.00

JDF

568.00

18591056

JDF

56.00

JDF

56.00

0223730

I. Ansano

6.24.10

LRF

20.00

LRF

20.00

STF

1,000.00

TOTAL

3,220.00

2,220.00

SCHEDULE 4- Falsified LFF for Case No. 136-10[14]

OR#

Data per OR

Falsified LFF - Case# spl 136-10

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590701

I. Ansano

6.24.10

SAJ

1,432.00

A. Mandangan

5.25.10

SAJ

332.00

18590702

SAJ

144.00

SAJ

144.00

18591064

JDF

568.00

18591065

JDF

56.00

JDF

168.00

0223734

LRF

20.00

LRF

10.00

18591066

A.Sabra

8.13.10

JDF

568.00

JDF

56.00

TOTAL

2,788.00

710.00

SCHEDULE 5 - Falsified LFF for Case No. 141-10[15]

OR#

Data per OR - Case# spl 147-10

Falsified LFF - Case# spl 141-10

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590705

N. Bantuas

8.20.10

SAJ

3,790.00

A. Rahman

7.6.10

SAJ

832.00

18590706

SAJ

144.00

SAJ

144.00

18591068

JDF

2,210.00

JDF

168.00

18591069

JDF

56.00

JDF

56.00

0223736

LRF

20.00

LRF

10.00

TOTAL

6,220.00

1,210.00

SCHEDULE 6- Falsified LFF for Case No. 162-11[16]

OR#

Data per OR - Case# spl 212-11

Falsified LFF - Case# spl 162-11

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590719

H. Amintao

2.7.11

SAJ

1,432.00

H. Usodan

1.17.11

SAJ

1,432.00

18590720

SAJ

144.00

SAJ

144.00

18591082

JDF

568.00

JDF

568.00

18591083

JDF

56.00

JDF

56.00

0223743

LRF

20.00

LRF

10.00

TOTAL

2,220.00

2,220.00

SCHEDULE 7- Falsified LFF for Case No.153-10[17]

OR#

Data per OR - Case# spl 161-11

Falsified LFF - Case# spl 153-10

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590711

S. Balindong

12.23.10

SAJ

332.00

A. Bano

10.4.10

SAJ

1,432.00

18590712

SAJ

144.00

SAJ

144.00

18591074

JDF

168.00

JDF

568.00

18591075

JDF

56.00

JDF

56.00

0223739

LRF

10.00

LRF

20.00

STF

1,000.00

TOTAL

1,710.00

2,220.00

SCHEDULE 8- Falsified LFF for Case No. 169-11[18]

OR#

Data per OR - Case# spl 171-11

Falsified LFF - Case# 169-11

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590729

T. Mutaba

5.11.11

SAJ

1,432.00

A. Mama

5.9.11

SAJ

332.00

18590730

SAJ

144.00

SAJ

144.00

18591092

JDF

568.00

JDF

168.00

18591093

JDF

56.00

JDF

56.00

0223748

LRF

20.00

LRF

10.00

TOTAL

2,220.00

710.00

SCHEDULE 9- Falsified LFF for Case No.179-11[19]

OR#

Data per OR - Case# spl 216-11

Falsified LFF - Case# 179-11

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590733

N. Basir

7.11.11

SAJ

1,298.00

SAJ

1,432.00

18590734

SAJ

144.00

18591096

N. Basir

7.11.11

JDF

1,210.00

M. Salic

6.17.11

JDF

568.00

18591097

JDF

56.00

0223740

LRF

20.00

0223750

N. Basir

7.11.11

LRF

25.00

TOTAL

2,533.00

2,220.00

SCHEDULE 10 - Falsified LFF for Case No. 185-11[20]

OR#

Data per OR

Falsified LFF - Case# spl 185-11

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590738

D. Baute

12.28.11

SAJ

61,217.30

A. Datudacula

12.27.11

SAJ

144.00

18590739

V. Macabago

3.5.12

SAJ

24,998.00

SAJ

832.00

18591099

M. Farida

11.1.11

JDF

168.00

JDF

168.00

18591100

JDF

56.00

JDF

56.00

0255002

LRF

20.00

LRF

20.00

TOTAL

86,459.30

1,220.00

SCHEDULE 11- Falsified LFF for Case No. 187-12[21]

OR#

Data per OR

Falsified LFF - Case# spl 187-12

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590741

O. Maunda

5.30.12

SAJ

332.00

H. Musa

4.18.12

SAJ

1,600.00

18590742

SAJ

144.00

SAJ

144.00

18591105

JDF

168.00

JDF

56.00

18591106

JDF

56.00

0255005

LRF

20.00

LRF

20.00

18591104

F. Hassan

5.2.12

JDF

200.00

JDF

400.00

TOTAL

920.00

2,220.00

Further, OR numbers assigned in Civil Case No. 194-12, particularly OR No. 18590607 was actually issued for FF and OR No. 18590608 is still unused as of date of audit, to wit:

SCHEDULE 12- Falsified LFF for Case No. 194-12[22]

OR#

Data per OR

Falsified LFF - Case# spl 194-12

Payor

Date

Fund

Amount

Payor

Date

Fund

Amount

18590607

A. Landua

8.15.13

FF

100,000.00

S. Serabo

11.22.12

SAJ

1,432.00

18590608

Unused

SAJ

144.00

18591110

A. Saro

1.23.13

JDF

1,250.00

JDF

568.00

18591111

JDF

56.00

JDF

56.00

0255007

N. Musa

11.12.12

LRF

20.00

LRF
20.00
TOTAL
2,220.00

The amounts in the Data per OR column in Schedules 1 to 12 above were found remitted to their respective accounts.

Moreover, the audit team did not find proof of collection of filing fees in Civil Case No. 105-09, entitled "Correction of Entry in the Civil Registry of Ms. Fatima B. Olama," although there was no howing that petitioner was an indigent. The case was decided favorably. The audit team computed the corresponding filing fees and added this to the accountability of Mr. Alauya, to wit: SAJF = P476.00; JDF = P224.00; and LRF = P10.00.

Based on the foregoing findings, the total amount of unreceipted, unreported and misappropriated filing fees amounted to Twenty-Two Thousand Three Hundred Ten Pesos (P22,310.00)

The audit team was not able to conduct a comprehensive examination for the period 1992 to 2002 due to the absence of LFF and other relevant documents attached to the case records necessary in the computation of filing fees. Hence, the team's examination on the subject years was based solely on the presented financial documents.

IV. Fiduciary Fund (FF)

The accountability period for the FF is from 25 January 2007 to 31 August 2013. Examination of this fund disclosed a shortage of Five Hundred Pesos (P500.00) and unwithdrawn balance of One Hundred Thousand Five Hundred Pesos (P100,500.00).

The FF collections of the court consisted only of cash bonds posted by the administrators in the settlement, distribution and disposition of estate of deceased Muslims. However, all collections were not remitted to the depository bank, but instead, kept by Mr. Alauya until withdrawn by the bondsmen. Mr. Alauya wittingly violated OCA Circular No. 50-95, which provides that "all Fiduciary Fund collections shall be deposited within twenty-four (24) hours upon receipt thereof with the depository bank." If opening a Trust Fund account with the LBP is impractical, Mr. Alauya as the Clerk of Court has no authority to retain the collection in his possession, as he has the option to deposit such collection in the City Treasurer's Office (CTO) or even in the OCC, RTC, Marawi City.

V. Sheriff's Trust Fund (STF)

The accountability period for the STF is from 7 March 2008 to 31 August 2013. The team did not find any financial records pertaining to this fund, except for the LFF[23] attached to the case records, which shows a miscellaneous fee of P1,000.00, the required deposit to defray the actual expenses to be incurred in the service of court processes. Collections in this fund are all unremitted to the depository bank. The provisions under Paragraphs 2 and 3 of Section 10, Rule 141 of the Revised Rules of Court, as amended, were not being followed. Mr. Abdulsamad B. Alawi, Sheriff III, same court, asserted that he has not claimed a single amount from the clerk of court to defray his expenses in the service of summons and other court processes relative to the trial of the case, which proved that the said miscellaneous fee of P1,000.00 collected by Mr. Alauya were presumably used for his personal purposes.

The examination of this fund disclosed a shortage of Sixteen Thousand Pesos (P16,000.00).

VI. Judiciary Development Fund (JDF)

The examination of the JDF for the period covered, disclosed a shortage of Seven Thousand Sixty-Four Pesos (P7,064.00).

As shown in the schedule/aging of delayed remittances, the JDF collections were irregularly remitted.[24]

VII. Special Allowance for the Judiciary Fund (SAJF)

The examination of the SAJP. for. the period covered disclosed a shortage of Ten Thousand Two Hundred Fourteen Pesos (P10,214.00).

The SAJF collections were also irregularly remitted per attached schedule/aging of delayed remittances.[25]

VIII. General Fund-Old (GF-Old) and Sheriff's General Fund (SGF)

The examination of the GF-Old and SGF for the period covered disclosed a shortage of One Thousand Five Hundred Eighty Pesos (P1,580.00) and Fifty-Six Pesos (P56.00).

These funds were also irregularly remitted as shown in the schedule/aging of delayed remittances.[26]

IX. Mediation Fund (MF)

This court started its collection of MF on 12 June 2007. Examination of this fund revealed a shortage of Two Thousand Pesos (P2,000.00).

The shortage was due to unremitted collections. Likewise, the subject court has not maintained an official cashbook and monthly financial reports for this fund.

X. Legal Research Fund (LRF)

The audit team also examined pertinent documents for the LRF after the team noticed discrepancies. Examination of this fund for the period covered disclosed an overage of One Thousand Ninety-Seven Pesos and 71/100 (P1,097.71).

As evidenced in the schedule/aging of delayed remittances, the LRF collections were irregularly remitted.[27]

The following JDF, SAJF and LRF collections for the corresponding periods were remitted only on 13 February 2013, after several years from the date of their collection, relative to the audit findings and memorandum of the Commission on Audit (COA),[28] to wit:

JDF

SAJF

LRF

Period

Amount

Period

Amount

Period

Amount

December 2002

2,090.00

May 2008

11,734.00

Sept-Dec 1994

50.00

January 2003

2,578.00

June 2008

2,214.00

1995

140.00

February 2003

1,186.00

July 2008

3,000.00

1996

100.00

May 2008

6,956.00

August 2008

9,140.00

1997

80.00

June 2008

986.00

September 2008

3,976.00

1998

70.00

August 2008

6,460.00

January 2011

3,632.00

1999

70.00

September 2008

224.00

February 2011

4,728.00

2000

70.00

January 2011

3,068.00

March 2011

1,576.00

2002

90.00

February 2011

1,872.00

April 2011

476.00

Aug-Sept 2006

12,699.92

March 2011

624.00

May 2011

1,576.00

June-Dec 2007

270.00

April 2011

224.00

July 2011

1,298.00

2008

952.00

May 2011

624.00

October 2011

2,794.00

2009

928.00

July 2011

1,210.00

November 2011

976.00

2010

581.00

October 2011

1,906.00

May 2012

476.00

2011

302.00

November 2011

224.00

October 2012

3,144.00

May-Nov 2012

60.00

May 2012

108.00

November 2012

1, 576.00

Total

30,340.00

52,316.00

16,462.92

The audit team was convinced that Mr. Alauya violated the prescribed period within which to remit the collections of the court. If not due to the audit conducted, the 23 January 2013 to 15 August 2013 collections in the total amount of One Hundred Four-Thousand Eight Hundred Fifty-Two Pesos (P104,852.00), would not have been remitted on 2 September 2013.

XI. Summary of Shortages

Fund

Amount

Fiduciary Fund

P 500.00

Sheriff's Trust Fund

16,000.00

Judiciary Development Fund

7,064.00

Special Allowance for the Judiciary Fund

10,214.00

General Fund-Old

1,580.00

Sheriff's General Fund

56.00

Mediation Fund

2,000.00

TOTAL

P 37,414.00

In their exit conference, the team discussed with Ms. Guro the proper collection and allocation of filing fees as tabulated in Rule 141 of the Rules of Court, as amended, as well as the proper handling and reporting of judiciary funds. Conversely, the audit team was not able to discuss with Mr. Alauya their initial audit findings for he did not report for work until the last day of the audit.

In the Resolution[29] dated 9 September 2014, this Court resolved to docket the audit report as a regular administrative matter against Ashary M. Alauya, incumbent Clerk of Court VI, Shari'a District Court, Marawi City, Lanao del Sur. He was immediately placed under preventive suspension pending the outcome of the

administrative matter, in line with the Civil Service rules. He was also directed to comment on the matter and explain in writing the following infractions:

(c.1) Non-remittance and/or delay in the remittance of collections;

(c.2) Using the already issued official receipts for other transactions to deceive the paying public and the Court;

(c.3) Non-issuance of official receipts for the court collections in Case No. 132-10, 140-10, 126-10, 136-10, 141-10, 162-11, 153-10, 169-11, 179-11, 185-11, 187-12, 194-12, 105-09.

(c.4) Falsification of LFF of the following case numbers to willfully appear that the filing fees were properly receipted:

a) 132-10 g) 153-10

b) 140-10 h) 169-11

c) 126-10 i) 179-11

d) 136-10 j) 185-11

e) 141-10 k) 187-12

f) 162-11

(c.5) Another set of unaccounted/missing official receipts, to wit:

a) 2344403 - 2344450 e) 166851 - 166858

b) 2344451 - 2344486 f) 2344734 - 2344735

c) 2344601 - 2344607 g) 2344739

d) 2344776 - 2344800 h) 18590902

(c.6) Non-submission of Monthly Financial Reports;

(c.7) Initial cash shortage of One Hundred Four Thousand Eight Hundred Fifty-Two Pesos (P104,852.00), found in the cash count, to wit:

FUND

OR USED

PERIOD COVERED

AMOUNT

Fiduciary Fund

18590607

8.15.13

100,000.00

Judiciary Development Fund

18590743-747

1.23.13-7.15.13

1,874.00

Special Allowance for the Judiciary

1859110-113

1.23.13-7.15.13

2,926.00

Legal Research Fund

255008-009

1.23.13-7.15.13

52.00

TOTAL

104,852.00

(c.8) For the shortages incurred in the following funds:

Fund

Amount

Fiduciary Fund

P 500.00

Sheriff's Trust Fund

16,000.00

Judiciary Development Fund

7,064.00

Special Allowance for the Judiciary

10,214.00

General Fund-Old

1,580.00

Sheriffs General Fund

56.00

Mediation Fund

2,000.00

TOTAL

P 37,414.00

In his Comment[30] dated 24 October 2014, Mr. Alauya branded the allegations against him as insulting, preposterous and bespeaking of personal hatred. He averred that the Financial Audit Team, headed by Ms. Sheryl A. Reambonanza (Ms. Reambonanza), had already pre-judged his case. He refused to take responsibility for the numerous charges levelled against him and pinpointed to Ms. Guro, the designated financial custodian, SDC, Marawi City, Lanao del Sur, as the one responsible for the shortages and omissions.

He narrated that when he reported on 3 January 2005, after his six (6) months suspension, he became apprehensive of collecting docket and other legal fees and handling official receipts, thus, he immediately issued a Memorandum dated 3 January 2005 designating Ms. Guro as cash clerk and the one in charge of the collection of docket/legal fees. Corollary to her new function, he claimed that Ms. Guro was actually in charge of the handling and control of the official receipts.

Mr. Alauya denied that there were shortages incurred, non-remittance and/or delay in the remittance of collections and branded these charges as baseless and fabricated. During the period when he was suspended from July 2004 up to December 2004, and from November 2011 up to April 2012, he maintained that it was Ms. Guro who remitted all collections to the Chief, Accounting Division, OCA. He belied that there was non-remittance. He averred that as per their record, collections for 2010 had already been deposited with the Land Bank, Marawi Branch, Marawi City.

Mr. Alauya alleged that there is no truth as to the P500.00 shortage in the FF because Ms. Guro told him that the latter does not collect FF.

Mr. Alauya also averred that there is no shortage of P16,000.00 in the STF because Ms. Guro does not collect STF. He explained that occasionally, litigants who were used to giving money to the sheriff for service of summons and other processes voluntarily give the amount for the service of summons and this is just listed in a coupon bond as miscellaneous. The amount is immediately given to the Sheriff, the Process Server, or the policeman authorized by the Station Commander to serve the summons. He claimed that in most cases, the promises of litigants to give miscellaneous expenses were not fulfilled. Hence, even if erroneously listed, no amount was actually given- so there was no collection. Hence, since she did not collect STF, she could not remit it. Besides, when they inquired from the RTC personnel, they were told that if ever STF is collected, it is not authorized by the court to serve court processes. He maintained that the cash clerk, much less the clerk of court, does not benefit from the STF as it is given directly to the serving officer.

He likewise denied the alleged "non-submission of Monthly Financial Reports" for being "out of tune with reality." As per their records, the cash clerk prepared their Monthly Reports of Collected Docket/Legal Fees and sent these to The Chief, Accounting Division, OCA, Supreme Court, Manila.

With respect to the alleged use of already issued ORs for another transaction, Mr. Alauya argued that it was impossible for him to have done so because once an OR is issued, it can never be re-issued, the reason being that the ballpen-ink used in the issuance of these receipts cannot be erased easily. Moreover, if a person uses one OR for two (2) transactions, the mark of the two (2) writings would easily appear thereon. Mr. Alauya noted that a scrutiny of the handwriting, in the ORs issued would reveal that all these belonged to Ms. Guro, the very person who issued them.

Mr. Alauya added that he never issued any OR since 3 January 2005 up to the present as it was Ms. Guro who issued ORs for the docket/legal fees; deposited the collected amounts with the Landbank, Marawi City; and prepared the transmittals of docket/legal fees and letters addressed to the Accounting Division, OCA.

With respect to the alleged falsification of LFF to make it appear that the filing fees were properly receipted, Mr.

Alauya explained their procedure in that Ms. Guro attaches a bond paper on the record of the case, which procedure was patterned from the RTC. The items indicated on the bond paper are: the Ors issued for the Docket Fees (JDF), Docket Fees (SAJ), Sheriffs Fees (JDF), Sheriffs Fees (SAJ), and LRF.

Mr. Alauya decried as an absolute falsity the alleged "initial cash shortage of One Hundred Four Thousand Eight Hundred Fifty Two Pesos, found in the cash count." According to him, the P100,000.00 cash bond was on hand. This was the cash bond in the "Landua Case," which was collected by the cash clerk under O.R. No. 18590607. He alleged that when he was about to be submit to audit team leader Ms. Reambonanza, the latter immediately called by cellphone from Iligan City, telling him not to deposit the money in the bank and stated that "(I) WILL NOT RECOGNIZE IT."

Considering that Mr. Alauya in his Comment dated 24 October 2014; Manifestation dated 23 February 2015; and Letter dated 29 July 2015 were pointing to Ms. Guro as the one responsible for some of the accusations against him, the Court directed Ms. Guro to comment on Mr. Alauya's allegations.

In her Comment[31] dated 22 December 2015, Ms. Guro alleged that indeed on 3 January 2005, immediately after the re-assumption to office of respondent clerk of court, the latter issued a Memorandum of the same date designating her as in-charge of the collection of docket/legal fees and turned over to her all the official receipts, docket/legal fees books and other financial records and made her in-charge and in custody of all those records; that as such, she collected all the docket/legal fees and issued all the official receipts for all the cases filed with their court; that the ORs were individually issued for each case; that as the person issuing the official receipts, she was the one writing thereon the name of the payor, the case number and the amount received, after which she presents it to Mr. Alauya for the latter's signature; that she assisted the Mr. Alauya, and as authorized by him, received all the cases filed with the court, and collected the required docket/legal fees as well as issued the pertinent ORs; that she was also authorized by Mr. Alauya to deposit their collections with the Land Bank-Marawi City Branch, and with Mr. Alauya signing the Deposit Slips for the JDF, General Fund, and LRF Accounts. With respect to the cash bond, Ms. Guro reported that Mr. Alauya informed her that he failed to bring the amount of P100,000.00 to Ms. Reambonanza in Iligan City because it is dangerous to bring such huge amount through a public transport, and much more dangerous to give away that money as he would be held liable for its loss either way; that Mr. Alauya readily gave her the P100,000.00 cash bond which she deposited with the account of the OCC, RTC-Marawi City per instruction of Ms. Reambonanza; that there was no falsification whatsoever done by the cash clerk or the clerk of court, nor was there any intent to falsify any paper or document; that on some very rare occasions, she might have unwittingly or mistakenly listed an amount promised by litigants for the miscellaneous, which they never gave, hence, there was no collection whatsoever; that they do not collect STF in most cases, and usually the summons signed by the clerk of court, were sent to the Station Commander, PNP, through a Letter-Request asking him to allow one of his police personnel to cause the service thereof to the defendant/s who is/are residing in his Municipality; and that in her capacity as designated-cash clerk and OIC-Financial Custodian, she kept all financial records, docket/legal fees books, official receipts and the like. These are allegedly locked in her table and being the one in charge thereof, she can say that all her collections for the docket/legal fees were all transmitted to the Chief, Accounting Division, OCA, Supreme Court, Manila.

The clerk of court is an important officer in our judicial system. His office is the nucleus of all court activities, adjudicative and administrative. His administrative functions are as vital to the prompt and proper administration of justice as his judicial duties.[32]

The clerk of court performs a very deficate function. He or she is the custodian of the courts funds and revenues, records, property and premises. Being the custodian thereof, the clerk of court is liable for any loss, shortage, destruction or impairment of said funds and property.[33] Hence, clerks of court have always been reminded of

their duty to immediately deposit the various funds they receive to the authorized government depositories, for they are not supposed to keep the funds in their custody.[34] The same should be deposited immediately upon receipt thereof.

Section B(4) of Supreme Court (SC) Circular No. 50-95, on the collection and deposit of court fiduciary funds, mandates that:

4. All collections from bail bonds, 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.

SC Circular Nos. 13-92 and 5-93 provides the guidelines for the proper administration of court funds.

SC Circular No. 13-92 commands that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. Section 4 of SC Circular No. 5-93 designates the Land Bank as the depository bank for the JDF.

Other provisions of SC Circular No. 5-93 give more explicit instructions on how clerks of court and OICs should handle court funds:

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 x x x, deposit such collections in the manner herein prescribed, and render the proper Monthly Report of Collections for said Fund.

x x x x

5. Systems and Procedures:

x x x x

c.

In the RTC, SDC, MeTC, MTCC, MTC, MCTC and SCC. The daily collections for the Fund in these courts shall be deposited every day with the local or nearest LBP branch for the account of the Judiciary Development Fund, Supreme Court, Manila Savings Account NO. 159-01163-1; or if depositing daily is not possible, deposits for the Fund shall be every second and third Fridays and 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 days above indicated.

Where 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 that particular week.

x x x x

d.

Rendition of Monthly Report. Separate Monthly Report of Collections shall be regularly prepared for the Judiciary Development Fund, 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.

The aggregate total of the Deposit Slips for any particular month should always equal to, and tally with, the total collections for that month as reflected in the Monthly Report of Collections.

If no collection was made during any month, notice to that effect should be submitted to the Chief Accountant of the Supreme Court by way of a formal letter within ten (10) days after the end of every month.

Here, it was established that cash bonds for the FF were not remitted to the depository bank, but instead, were kept by respondent clerk of court until withdrawn by the bondsmen. It was likewise established that the GF-old, SGF, JDF, SAJF and LRF were irregularly remitted. In fact, the audit team found that the JDF, SAJF and LRF collections for the corresponding periods were remitted only on 13 February 2013, after several years from the date of collection, relative to the audit findings and memorandum of the COA. For this alone, respondent Clerk of Court should be penalized as the delayed remittance of cash collections by clerks of court and cash clerks constitute gross neglect of duty.

It was likewise established that the One Hundred Thousand Pesos (P100,000.00) unremitted FF collection was in the possession of Mr. Alauya, as the latter admitted that it was the cash bond in the "Landua Case" and said amount was on hand. However, when the audit team directed respondent clerk of court to bring the said amount, he failed to return to the court on the same day to turn it over. Such failure was detrimental to Mr. Alauya's cause. Clerks of courts are not supposed to keep the funds in their custody. Further, settled is the rule that "the failure of a public officer to remit funds upon demand by an authorized officer [is] prima facie evidence that the public officer has put such missing funds or property to personal use." [35]

In *Office of the Court Administrator v. Fortaleza*, [36] the Court stressed the responsibility and accountability of clerks of court for the collected legal fees in their custody, thus:

Clerks of court are the chief administrative officers of their respective courts; with regard to the collection of legal fees, they perform a delicate function as judicial officers entrusted with the correct and effective implementation of regulations thereon. Even the undue delay in the remittances of amounts collected by them at the very least constitutes misfeasance. [37] x x x

By failing to properly remit the cash collections constituting public funds, Mr. Alauya violated the trust reposed in him as the disbursing officer of the Judiciary. Delayed remittance of cash collections constitutes gross neglect of duty because this omission deprives the court of the interest that could have been earned if the amounts were deposited in the authorized depository bank. It should be stressed that clerks of court are required by SC Circular No. 13-92 to withdraw interest earned on deposits, and to remit the same to the account of the JDF within two (2) weeks after the end of each quarter. Delay in the remittance of court funds in the period required casts a serious doubt on the court employee's trustworthiness and integrity. Mr. Alauya's failure to remit the court funds is tantamount to gross neglect of duty, dishonesty and grave misconduct prejudicial to the best interest of the service. [38]

Mr. Alauya's attempt to pass the blame on his subordinate, Ms. Guro, stating that he is no longer in charge of the collection of docket/legal fees and of handling and controlling the official receipts as he immediately issued a memorandum designating Ms. Guro as cash clerk and the one in charge of the collection of docket/legal fees after his six (6) months suspension, cannot be countenanced. As the court's administrative officer, he had control and supervision over all court records, exhibits, documents, properties and supplies. Furthermore, he had to see to it that his subordinates performed their functions well. Clerks of court are key figures in the judicial system. For this reason, they must be assiduous in performing their official duties and in supervising and managing court dockets and records. [39] Moreover, in the case of *Office of the Court Administrator v. Dureza-Aldevera*, [40] the Court held that [c]lerks of court cannot pass the blame for the shortages incurred to his/her subordinates who perform

the task of handling, depositing, and recording of cash and check deposits x x x x for it is incumbent upon the clerk of court to ensure his/her subordinates are performing his/her duties and responsibilities in accordance with the circulars on deposits and collections to ensure that all court funds are properly accounted for.

Moreover, it could be gleaned that Mr. Alauya points to Ms. Guro as the one responsible for the alleged anomalies during the periods when he was suspended from July 2004 up to December 2004, and from November 2011 up to April 2012, but he is apparently silent on those charges falling outside the said period. Such silence is detrimental to his cause.

It is the natural instinct of man to resist an unfounded claim or imputation and defend himself. It is totally against our human nature to just remain reticent and say nothing in the face of false accusations. Hence, silence in such cases is almost always construed as an implied admission of the truth thereof.[41]

Mr. Alauya averred that he had already been previously suspended for the missing official receipts in his court. He, however, failed to explain the loss of the other sets of missing official receipts as later found by the audit team. Such loss manifests the deliberate neglect of respondent's duties and responsibilities. As Supply Officer and Property Custodian of the court, he is required to exercise control and supervision over the possession, custody and safekeeping of court properties and supplies.[42]

Mr. Alauya also averred that the Financial Audit Team, headed by Ms. Reambonanza, targeted him and singled him out from the other clerks of court and already pre-judged his case. However, aside from his bare allegations, no proof was presented to substantiate his claims. In the absence of evidence manifesting any ill motive on the part of the audit team, it logically follows that no such improper motive could have existed and that, corollarily, their report is worthy of full faith and credit.

Those who work in the judiciary, such as Mr. Alauya, must adhere to high ethical standards to preserve the court's good name and standing. They should be examples of responsibility, competence and efficiency, and they must discharge their duties with due care and utmost diligence since they are officers of the court and agents of the law. Indeed, any conduct, act or omission on the part of those who would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the judiciary shall not be countenanced.[43]

The conduct required of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach and circumscribed with a heavy burden of responsibility. As forerunners in the administration of justice, they ought to live up to the strictest standards of honesty and integrity, considering that their positions primarily involve service to the public.[44]

Mr. Alauya repeated his infractions despite the COA auditor's audit findings on his late remittances of collections and advise to restitute the same. We note that he was previously administratively charged for the deliberate delay in the remittance of collections, falsification of documents and unaccounted official receipts in A.M. No. 02-4-03-SDC, wherein he was found guilty of gross neglect of duty in the custody of court property and was suspended for eighteen (18) months without pay. It appears that he did not learn from his previous mistakes and has ignored the warnings given to him.

As clerk of court, he should have known that he performs a delicate function as designated custodian of the court's funds, revenues, records, properties and premises. As such, he should have discharged his duties with due care and utmost diligence. Any deceitful act, conduct of dishonesty and deliberate omission in the performance of duties are grave offenses which carries the extreme penalty of dismissal from the service even if committed for the first time.[45] Hence, this Court is left with no other recourse but to impose upon him the extreme penalty of dismissal from the service.

IN THE LIGHT OF THE FOREGOING PREMISES, we find Ashary M. Alauya, Clerk of Court VI, Shari'a District Court, Marawi City, Lanao del Sur GUILTY of gross neglect of duty, dishonesty and grave misconduct prejudicial to the best interest of the service; and DISMISS him from the service with cancellation of eligibility, forfeiture of all his retirement benefits except his accrued leave credits, and with perpetual disqualification for reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations. The Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator is directed to monitor the book of accounts of the Shari'a District Court, Marawi City to ensure compliance with the issuances of the Court on the collection and allocation of filing fees and submissions of monthly reports.

SO ORDERED.

Sereno, Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Perez, Mendoza, Reyes, Perlas-Bernabe, Leonen, Jardeleza, and Caguioa,[*] JJ., concur.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on December 6, 2016 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled administrative matter, the original of which was received by this Office on December 28, 2016 at 2:33 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[*] On Leave.

[1] Rollo, p. 40; Annex "F," AODS of Mr. Alauya.

[2] Id. at 33; Annex "D," Office Memorandum dated 4 April 2013.

[3] Id. at 39; Annex "E," Letter Request for Audit from the Accounting Division, FMO, OCA.

[4] Id. at 41-42; Annex "G," Cash Count Sheet.

[5] Id. at 43; Annex "H," Deposit Slips of JDF, SAJF and LRF dated 3 September 2013.

[6] Id. at 44-45; Annex "I," Office Memorandum dated 30 July 2013.

[7] Id. at 46; Annex "J," Designation of Ms. Guro as Officer-in-Charge.

[8] Id. at 47; Annex "K," Official Receipt issued by the RTC, OCC, Marawi City.

[9] Id. at 48; Annex "L," Index Card of Official Receipts issued to SDC, Marawi City.

- [10] Re: Withholding of all the Salary of Mr. Ashary Alauya, 473 Phil. 180 (2004).
- [11] Rollo, pp. 49-52; Annex "M," ORs Used and Falsified LFF in Case No. 132-10.
- [12] Id. at 56-60; Annex "N," ORs Used and Falsified LFF in Case No. 140-10.
- [13] Id. at 62; Annex "O," ORs Used and Falsified LFF in Case No. 126-10.
- [14] Id. at 67-70; Annex "P," ORs Used and Falsified LFF in Case No. 136-10.
- [15] Id. at 73-75; Annex "Q," ORs Used, and Falsified LFF in Case No. 141-10.
- [16] Id. at 76-80; Annex "R," ORs Used and Falsified LFF in Case No. 162-11.
- [17] Id. at 83-85; Annex "S," ORs Used and Falsified LFF in Case No. 153-10.
- [18] Id. at 86-92; Annex "T," ORs Used and Falsified LFF in Case No. 169-11.
- [19] Id. at 95-97; Annex "U," ORs Used and Falsified LFF in Case No. 179-11.
- [20] Id. at 100-105; Annex "V," ORs Used and Falsified LFF in Case No. 185-11.
- [21] Id. at 106-109; Annex "W," ORs Used and Falsified LFF in Case No. 187-12.
- [22] Id. at 112-116; Annex "X," ORs Used and Falsified LFF in Case No. 194-12.
- [23] Id. at 123-136; Annex "AA," Legal Fees Forms with Miscellaneous Fee of P1,000.00.
- [24] Id. at 138-140; Annex "CC," Schedule of Delayed Deposits for JDF.
- [25] Id. at 141-142; Annex "DD," Schedule of Delayed Deposits for SAJF.
- [26] Id. It 143-146; Annex "EE," Schedule of Delayed Deposits for GF-Old and SGF.
- [27] Id. at 147-149; Annex "FF," Schedule of Delayed Deposits for LRF.
- [28] Id. at 150-151; Annex "GG," COA Audit Observation Memorandum.
- [29] Id. at 152-158.
- [30] Id. 130-174.
- [31] Id. at 311-317.
- [32] Office of the Court Administmtor v. Banag, 651 Phil. 308, 342 (2010) citing Re: Report on the Financial Audit Conducted in the RTC, Branch 34, Balaoan, La Union, 480 Phil. 484, 493 (2004) further citing Dizon v. Bawalan, 453 Phil. 125, 133 (2003).
- [33] Id. at 324 citing Office of the Court Administrator v. Fortaleza, 434 Phil. 511, 522 (2002).
- [34] Id. at 324-325.
- [35] Id. at 327 citing Office of the Court Administrator v. Besa, 437 Phil. 372, 380-381 (2002).
- [36] 434 Phil. 511 (2002).
- [37] Id. at 522 citing Re: Report on the Financial Audit in RTC, General Santos City and the RTC and MTC of Polomolok, South Cotabato, A.M. No. 96-1-25-RTC, 8 March 2000, 327 SCRA 414.
- [38] Office of the Court Administrator v. Melchor, Jr., A.M. No. P-06-2227, 19 August 2014, 733 SCRA 246,

260.

[39] Zacarias v. Judge Marcos, 465 Phil. 834, 847 (2004).

[40] 534 Phil. 102, 132 (2006).

[41] Office of the Court Administrator v. Savadera, 717 Phil. 469, 487 (2013).

[42] 2002 Revised Manual for Clerks of Court.

[43] Office of the Court Administrator v. Banag, supra note 32 at 327-328 citing Re: Report on the Financial Audit conducted in the MTCC-OCC, Angeles City, 525 Phil. 548, 561 (2006).

[44] Id. at 328 citing Re: Report on the Financial Audit conducted at the MTCs of Bani, Alaminas and Lingayen, in Pangasinan, 462 Phil. 535, 544 (2003).

[45] Rule IV of the Unifonn Rules on Administrative Cases in the Civil Service. (1999).

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