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**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

**THE OFFICE OF THE COURT
ADMINISTRATOR,**
Complainant,

A.M. No. P-06-2253
(Formerly A.M. No. 06-9-297-MTC)

Complainant,

- versus -

**ELIZABETH R. TENGCO,
CLERK OF COURT II,
MUNICIPAL TRIAL COURT,
STA. CRUZ, LAGUNA,**
Respondent.

x ----- x
JUDGE ELPIDIO R. CALIS,
Complainant,

A.M. No. P-07-2360
(Formerly OCA IPI No. 06-2427-P)

- versus -

**ELIZABETH R. TENGCO,
CLERK OF COURT II,
MUNICIPAL TRIAL COURT,
STA. CRUZ, LAGUNA,**
Respondent.

x ----- x
**THE OFFICE OF THE COURT
ADMINISTRATOR,**
Complainant,

A.M. No. P-13-3157
(Formerly A.M. No. 12-4-30-MTC)

- versus -

**ELIZABETH R. TENGCO,
FORMER CLERK OF COURT
II, MUNICIPAL TRIAL
COURT, STA. CRUZ,
LAGUNA,**
Respondent.

Present:

SERENO, CJ.,
Chairperson,
**LEONARDO-DE CASTRO,
DEL CASTILLO,***
PERLAS-BERNABE, and
CAGUIOA, JJ.

Promulgated:

JUL 12 2017

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* On official leave.

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DECISION**LEONARDO-DE CASTRO, J.:**

These consolidated administrative matters arose from (i) the Memorandum dated March 30, 2006 of Judge Elpidio R. Calis (Judge Calis), Presiding Judge, Municipal Trial Court (MTC), Sta. Cruz, Laguna addressed to then Court Administrator, now Associate Justice of the Court, Honorable Presbitero J. Velasco, Jr., recommending that Ms. Elizabeth R. Tengco (Tengco), Clerk of Court II, MTC, Sta. Cruz, Laguna be suspended from work; that her salaries and other benefits be withheld; and that an immediate financial audit of her books of accounts be undertaken; and (ii) the Financial Audit conducted on the Books of Accounts of Tengco, the designated custodian of court funds, during the period of April 1, 2000 to March 26, 2006.

Antecedents

In a Memorandum dated February 27, 2006, Judge Calis directed Tengco to explain the following:

1. Failure to deposit Fiduciary Fund Collection;
2. Delayed (sic) in the Release of Cash Bond;
3. Failure to prepare and submit your Statement of Unwithdrawn Fiduciary Fund; [and]
4. Failure to explain the alleged wrong assessment of filing fees of Violation of BP 22 under Criminal Cases (sic) Nos. 32872 to 32874.¹

The Memorandum was issued as a result of --

[A] random checking and comparison of Unwithdrawn Cash Bond available on [record] and Unwithdrawn Cash Deposit as reflected in the Xerox copies of the Fiduciary Bank Book reveals that there are Fiduciary Fund Collection duly receipted posted by the accused for the period of 2004-2005 that were not deposited.

Furthermore, since the alleged wrong assessment of the filing fees you made in the Violation of BP 22 under Criminal Cases (sic) Nos. 32782 to 32784 and came to the attention of the Court last December 2005 and after confronting you, and directed to explain, you failed up to the present.²

¹ Rollo (A.M. No. P-07-2360), p. 17.

² Id.

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Criminal Case Nos. 32782-84 involved the violation of Batas Pambansa Bilang 22 by the spouses Edwina and Ferdinand Dator before the MTC, Sta. Cruz, Laguna. The complaint was filed by one Jonathan Rebong (Rebong) and his mother. According to Rebong, Tengco required him to pay ₱400,000.00, instead of just ₱75,525.00, as filing fees for the two complaints.³

Due to the continued absence of Tengco since February 27, 2006, in a letter dated March 1, 2006, Judge Calis wrote the Office of the Court Administrator (OCA) for the immediate conduct of a financial audit of the Books of Accounts of Tengco on the ground that *“there are complaints about the delay of released (sic) of the Fiduciary bond due to the bondsman after the case has been dismissed or decided. Thus, a random checking of [some] approved cash bond duly receipted (sic) by the Clerk of Court and compared to the Fiduciary Bank Book reveals that cash bond are not deposited on time or not deposited at all.”*⁴

In the meantime, Judge Calis designated Ms. Leslie San Juan (San Juan), Court Stenographer, MTC, Sta. Cruz, Laguna as the acting accountable officer of said sala.

On March 9, 2006, Judge Calis issued another Memorandum to Tengco directing her to report to work, otherwise she would be considered AWOL or absent without official leave. However, Tengco still failed to do so.

On March 22, 2006, Judge Calis issued a third Memorandum that (i) directed Tengco to submit her monthly report of Judiciary Development Fund (JDF), Special Allowance for the Judiciary Fund (SAJF), and Fiduciary Fund (FF) collections; (ii) reminded Tengco to turn over all records in her possession; and (iii) reiterated his earlier directive to Tengco to explain the alleged wrong assessment of filing fees in Criminal Case Nos.

³ On April 11, 2006, Rebong filed a complaint-affidavit against Tengco before the OCA. He alleged that he asked Tengco for his official receipts. Tengco, however, could only give him photocopies of the supposed receipts; and when pressed for the originals thereof, she claimed that she still needed to enter them in the books and promised to send them to Rebong as soon as possible. But despite repeated demands, Tengco failed to produce and turn over the originals of the official receipts. The aforementioned complaint-affidavit was eventually docketed as **A.M. No. P-07-2338**, a regular administrative matter against Tengco. (*Rollo* [A.M. No. P-13-3157], p. 41.)

⁴ *Rollo* (A.M. No. P-06-2253), p. 98.
In consideration of the above, in a Resolution dated July 12, 2006, in A.M. No. 06-5-158-MTC entitled *“Re: Withholding of Salaries and Other Benefits of Ms. Elizabeth R. Tengco, Clerk of Court, MTC, Sta. Cruz, Laguna.”* the Court resolved to withhold the salaries and benefits of Tengco for non-submission of Daily Time Records/Bundy Cards until compliance is made pursuant to Sec. 50, Rule XVI, CSC MC No. 41, s. 1998 of the Omnibus Rules on Leave. Further, the CMO-OCA formed a financial audit team to look into the books of account of MTC, Sta. Cruz, Laguna *vis-à-vis* any accountability of Tengco from April 1, 2000 to February 28, 2006. (*Id.* at 82.)

32782-84 for violation of Batas Pambansa Blg. 22. But, as with the other earlier memoranda, Tengco still failed to comply thereto.

Re: A.M. No. P-06-2253 (formerly A.M. No. 06-9-297-MTC [Re: Partial Report on the Financial Audit Conducted on the Books of Accounts of Ms. Elizabeth R. Tengco, Clerk of Court II, Municipal Trial Court, Sta. Cruz, Laguna])

Acting on the letter of Judge Calis dated March 1, 2006, the Court Management Office (CMO)-OCA formed a Financial Audit Team to look into the Books of Accounts of the MTC, Sta. Cruz, Laguna *vis-à-vis* the accountability of Tengco during the period that she was the Clerk of Court of said sala, from April 1, 2000 to February 28, 2006.

The Financial Audit Team's Partial Report of said financial audit was docketed as A.M. No. 06-9-297-MTC.

In a Memorandum dated August 23, 2006, the OCA adopted and recommended the approval of the Partial Report containing the following findings and recommendations:

SUMMARY OF CASH ACCOUNTABILITIES OF MS. ELIZABETH R. TENGCO AS OF MARCH 31, 2006

FUND	AMOUNT
Judiciary Development Fund	₱619,521.39
Special Allowance for the Judiciary Fund	143,079.60
Clerk of Court General Fund	64,866.00
Clerk of Court Fiduciary Fund	1,326,503.91
Philippine Mediation Fund	5,500.00
TOTAL	₱2,159,470.90

The findings and recommendation of the team are hereby adopted and recommend approval thereof[,] to wit:

1. This Report be docketed as a regular administrative complaint against Ms. Elizabeth Tengco, Clerk of Court II, Municipal Trial Court, Sta. Cruz, Laguna;
2. MS. ELIZABETH TENGCO, Clerk of Court of the Municipal Trial Court (MTC), Sta. Cruz, Laguna be:

(a) DIRECTED to:

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a.1 RESTITUTE the amounts of ₱619,521.39, ₱143,079.60, ₱64,866.00, ₱746,603.91 and ₱5,500.00 representing the shortages in the JDF, SAJF, GF, Fiduciary Fund and Philippine Mediation Fund, respectively, by depositing said amounts to their respective accounts, furnishing the Fiscal Monitoring Division, CMO-OCA, with the machine validated deposit slips as proof of remittance x x x;

x x x x

a.2 EXPLAIN in writing within the period of fifteen days (15) from notice the ff:

a.2.1) why she incurred the above shortages in her collections;

a.2.2) the failure to remit her collections on time for the Fiduciary Fund as follows:

O.R. No.	Date of Collection	Date Deposited	Amount	Period Delayed
16370583	7/19/2004	3/20/2006	₱3,000.00	1 yr. & 8 months
17897401	7/19/2004	3/20/2006	1,000.00	1 yr. & 8 months
	8/4/2004	3/20/2006	500.00	1 yr., 7 months & 16 days
17897453 & 55	8/9/2004	3/20/2006	1,000.00	1 yr., 7 months & 11 days
17897469	8/17/2004	3/20/2006	500.00	1 yr., 7 months & 3 days
17897595 to 600	10/5/2004	3/20/2006	24,000.00	1 yr., 5 months & 15 days
17899126	2/9/2005	3/20/2006	6,000.00	1 yr., 1 month & 11 days
862534	5/3/2005	3/20/2006	4,000.00	10 months & 17 days
862536	5/4/2005	3/20/2006	4,500.00	10 months & 16 days
862658	6/1/2005	3/20/2006	5,000.00	9 months & 19 days
862728	7/18/2005	3/20/2006	500.00	8 months & 2 days
1325177	10/25/2005	3/20/2006	6,000.00	4 months & 23 days
1325385 to 86	9/21/2005	3/20/2006	5,500.00	5 months
1325375	9/21/2005	3/20/2006	3,000.00	5 months
1325063 to 64	7/21/2005	3/20/2006	6,000.00	7 months
1325159	10/27/2005	3/20/2006	6,000.00	4 months & 25 days
1325171	10/20/2005	3/20/2006	4,000.00	5 months
16371086	12/5/2005	3/20/2006	500.00	3 months & 15 days
1325461	12/13/2005	3/20/2006	500.00	3 months & 7 days
17897450	8/6/2004	3/7/2006	2,000.00	1 yr. & 7 months
17897459	8/10/2004	3/7/2006	1,500.00	1 yr., 6 months & 25 days
17897464	8/13/2004	3/7/2006	2,000.00	1 yr., 6 months & 22 days
17897479	8/23/2004	3/7/2006	2,500.00	1 yr., 6 months & 12 days
17897503	9/3/2004	3/7/2006	6,000.00	1 yr., 6 months & 4 days
17897533	9/10/2004	3/7/2006	1,000.00	1 yr., 5 months & 25 days
1325352	9/13/2004	3/7/2006	10,000.00	1 yr., 5 months & 22 days
17897543	9/14/2004	3/7/2006	3,000.00	1 yr., 5 months & 21 days
17897562	9/20/2004	3/7/2006	15,000.00	1 yr., 5 months & 15 days
17897590	10/4/2004	3/7/2006	3,000.00	1 yr., 5 months & 3 days
17898902	10/6/2004	3/7/2006	3,000.00	1 yr., 5 months & 1 day
17898994 to 95	12/6/2004	3/7/2006	13,000.00	1 yr., 3 months & 1 day
17899064	1/11/2005	3/7/2006	3,000.00	1 yr., 1 month & 20 days
17899074	1/12/2005	3/7/2006	3,000.00	1 yr., 1 month & 19 days
20989227 to 229	2/22/2005	3/7/2006	9,000.00	1 yr. & 13 days
433924	3/28/2005	3/7/2006	2,000.00	11 months & 7 days
1325366 to 68	9/14/2005	3/7/2006	30,000.00	5 months & 21 days

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a.3 SUBMIT to the Fiscal Monitoring Division, CMO-OCA the following:

- a.3.1) Machine validated deposit slips in item 2.a.1;
- a.3.2) Cashbook, Deposit Slips and Monthly reports for all funds and triplicate official receipts issued for fiduciary funds from April 1, 2000 to February 28, 2006;
- a.3.3) the ACKNOWLEDGMENT RECEIPTS, WITHDRAWAL SLIPS AND ORIGINAL OFFICIAL RECEIPTS of the bonds in the dismissed cases/undocumented withdrawals as enumerated in Annex "K" of this report amounting to ₱579,900.00 otherwise this will form part of her accountabilities;
- a.3.4) Deposit slips as reflected in the subsidiary ledgers of the Accounting Division, FMO-OCA amounting to P935,774.01 (Annex "P-1"), ₱142,928.20 (Annex "Q-1") and ₱52,887.00 (Annex "R-1") for Judiciary Development Fund, Special Allowance for the Judiciary Fund and General Fund, respectively, otherwise this will form part of her accountabilities; and
- a.3.[4]) The following missing and unaccounted official receipts:

Official Receipts No.	Quantity	Date Requisitioned/Remarks
10995980 – 10996000	21 pieces	Beg. Inventory of unused OR's as of 4/27/00
11310788 – 11310800	13 pieces	Beg. Inventory of unused OR's as of 4/27/00
11794589 – 11794600	12 pieces	Beg. Inventory of unused OR's as of 4/27/00
11310632 – 11310650	19 pieces	Beg. Inventory of unused OR's as of 4/27/00
11793429 – 11793450	22 pieces	Beg. Inventory of unused OR's as of 4/27/00
13869601 – 13869650	1 booklet	November 29, 2000
13871101 – 13871150	1 booklet	November 29, 2000
14899801 – 14899850	1 booklet	July 12, 2001
15361701 – 15361750	1 booklet	September 21, 2001
15918051 – 15918100	1 booklet	February 6, 2002
16369951 – 16370000	1 booklet	April 30, 2002
16370351 – 16370400	1 booklet	April 30, 2002
16370701 – 16370750	1 booklet	April 30, 2002
16370951 – 16371000	1 booklet	April 30, 2002
16371051 – 16371100	1 booklet	April 30, 2002
17897251 – 17897750	10 booklets	March 5, 2003
17898901 – 17899250	7 booklets	March 5, 2003
20987801 – 20987850	1 booklet	August 12, 2004
20989201 – 20989250	1 booklet	August 12, 2004
433901 – 433950	1 booklet	January 10, 2005
2044001 – 2046000	40 booklets	July 6, 2005
2955201 – 2956450	25 booklets	November 11, 2005
862501 – 862750	5 booklets	
12571851 – 12571900	1 booklet	April 07, 2000
12890351 – 12890400	1 booklet	May 22, 2000
433951 – 434000	1 booklet	January 10, 2005
2046001 – 2046200	4 booklets	July 06, 2005

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2046301 – 2046400	2 booklets	July 06, 2005
1325051 – 1325500	9 booklets	
Total	118 booklets & 87 pieces	

3. Judge Calis, Presiding Judge, MTC, Sta. Cruz, Laguna, be DIRECTED to cause the personal delivery of the resolution of this Court to Ms. Elizabeth Tengco at her home address and submit proof of such service within ten (10) days from notice.
4. A hold Departure Order be ISSUED to prevent Ms. Tengco from leaving the country.⁵

By Resolution⁶ dated October 9, 2006, the Court adopted the recommendation of the OCA. We also directed the Legal Office of the OCA to file the appropriate case against Tengco. The Partial Report was re-docketed as A.M. No. P-06-2253.

Tengco was furnished copies of the above-mentioned Resolution and Hold Departure Order at her addresses on record but the same were returned unserved with the notations “RTS-moved out” and “RTS-addressee abroad nobody to receive.” Similarly, in a Manifestation dated October 31, 2006, Judge Calis informed the Court that the Process Server of the MTC, Sta. Cruz, Laguna made two attempts to personally serve the subject Resolution but there was no one inside the premises on both times; hence, he was forced to leave a copy thereof in the mailbox.⁷

Re: A.M. No. P-07-2360 (formerly OCA IPI No. 06-2427-P [Re: Judge Elpidio R. Calis v. Elizabeth Tengco, Clerk of Court, MTC, Sta. Cruz, Laguna])

In a Memorandum dated March 30, 2006 to the OCA, Judge Calis recommended the following actions against Tengco:

1. Request for SUSPENSION of Elizabeth R. Tengco;
2. WITH[H]OLDING of her salary and other benefits;
3. Declaring her absent without [official] leave (AWOL);
4. Reiterating further the request for immediate auditing as reflected in the letter of the herein presiding judge dated March 1, 2006 and indorsed by the Executive Judge, Hon. Mary Ann Enrile Corpuz Manalac on March 1, 2006 and received by the Fiscal Monitoring

⁵ Rollo (A.M. No. P-06-2253), pp. 4-9.

⁶ Id. at 231-236.

⁷ Id. at 298-299.

Division on March 3, 2006 and also the Office of the Deputy Court Administrator Jose P. Perez on March 3, 2006 also; and

5. Other appropriate actions under the premises.⁸

Judge Calis alleged that he had no other option but make the abovestated recommendations in view of Tengco's refusal to comply with his directive to explain the non-submission of Monthly Report of JDF, SAJ and Fiduciary Collections for the month of February 2006 and other matters pertaining to her obligations as clerk of court.

The OCA treated the foregoing Memorandum as an administrative complaint for grave misconduct and dereliction of duty against Tengco, and docketed it as OCA IPI No. 06-2427-P entitled "*Judge Elpidio R. Calis v. Elizabeth R. Tengco, Clerk of Court II, MTC, Sta. Cruz, Laguna.*"

Several times Tengco was directed to comment on the administrative complaint against her, but all Indorsements sent to her address on record were also returned unserved with the notation "*RTS-Moved Out.*" Note that it appeared on record, however, that Tengco filed a letter dated March 8, 2006 (with attachments) before the Leave Division-OCA, wherein she manifested that she was filing her Daily Time Record (DTR) for the month of February 2006, an Application for Leave⁹ duly signed by Judge Calis and a Medical Certificate.

When asked to comment on Tengco's March 8, 2006 letter-manifestation with attachments, Judge Calis admitted signing Tengco's Application for Leave, but he clarified that it was obtained through fraud, *i.e.*, he signed it way back in November 2005 upon Tengco's representation that the same would be used relative to the latter's forced leave credits in 2005.¹⁰

In a Memorandum dated June 14, 2007, the OCA made the following evaluation and recommendation, to wit:

Respondent's silence and inaction on the directive of complainant can be misinterpreted as admission of guilt. Defying the express directive of the complainant to explain her non-submission of her report on financial records, she chose not to explain, to the prejudice of the service.

⁸ *Rollo* (A.M. No. P-07-2360), p. 2.

⁹ From February 27-April 18, 2006, broken down as follows forced Leave for 5 working days, sick leave for 15 working days and vacation leave for 15 working days (Id. at 24).

¹⁰ Judge Calis's reply was reiterated in a 2nd Indorsement dated December 19, 2006. (*Rollo* [A.M. No. P-07-2360], pp. 48-50.)

Time and again the Court has pronounced that Public Officers must at all times be accountable to the people, serve them with utmost degree of responsibility, integrity, loyalty and efficiency. A court employee's AWOL for a prolonged period of time constitutes conduct prejudicial to the best interest of the public service and warrants the penalty of dismissal from the service with forfeiture of benefits.

x x x x

RECOMMENDATION: x x x

1. That instant administrative complaint be re-docketed as a regular administrative matter;
2. The respondent[,] Elizabeth R. Tengco, be DROPPED from the service and her position declared vacant; [and]
3. This instant administrative complaint be incorporated to A.M. No. P-06-2253 (OCA vs. Ms. Elizabeth R. Tengco, Clerk of Court II, MTC, Sta. Cruz, Laguna).¹¹

By Resolution¹² dated August 15, 2007, the Court adopted the recommendation of the OCA. The administrative complaint was re-docketed as A.M. No. P-07-2360 and consolidated with A.M. No. P-06-2253.

And in a Resolution¹³ dated December 8, 2008, taking note that copies of its Hold Departure Order issued against Tengco that were sent to her given addresses were all returned unserved with the notations "*RTS addressee abroad nobody to receive*" or "*RTS-moved out*," the Court resolved to direct the Legal Office-OCA to file the appropriate criminal case against Tengco.

In a Memorandum dated July 5, 2011, however, the OCA recommended that the filing of a criminal case against Tengco be held in abeyance pending the completion of the reconciliation of all accounts maintained by the MTC, Sta. Cruz, Laguna. The OCA explained that in another round of financial audit conducted on February 15-26, 2011, the Financial Audit Team unearthed more discrepancies relative to Tengco's financial accounts. The subject recommendation was approved and adopted by the Court on August 22, 2011.

¹¹ *Rollo* (A.M. No. P-07-2360), pp. 83-84.

¹² *Id.* at 85-86.

¹³ *Id.* at 88.

Re: A.M. No. P-13-3157 (formerly A.M. No. 12-4-30-MTC [Final Report on the Financial Audit conducted on the books of accounts of the Municipal Trial Court, Sta. Cruz, Laguna])

In a Memorandum dated March 9, 2012, the OCA submitted its Final Report on the financial audit conducted on the Books of Accounts of the MTC, Sta. Cruz, Laguna for the period of April 1, 2000 to March 31, 2006 and April 1, 2006 to January 31, 2011, finding that –

I. For the Inventory of Used and Unused Official Receipts:

A total of One Hundred Eighteen (118) Booklets & Eighty-Seven (87) Pieces of Official Receipts with original, duplicate and triplicate copies were missing. These unaccounted Official Receipts were already reported in the partial report as missing during the accountability period of Ms. Elizabeth R. Tengco.

The Missing Official Receipts with series number are as follows:

Official Receipts No.	Quantity	Date Requisitioned/Remarks
10995980 – 10996000	21 pieces	Beg. Inventory of unused OR's as of 4/27/00
11310788 – 11310800	13 pieces	Beg. Inventory of unused OR's as of 4/27/00
11794589 – 11794600	12 pieces	Beg. Inventory of unused OR's as of 4/27/00
11310632 – 11310650	19 pieces	Beg. Inventory of unused OR's as of 4/27/00
11793429 – 11793450	22 pieces	Beg. Inventory of unused OR's as of 4/27/00
13869601 – 13869650	1 booklet	November 29, 2000
13871101 – 13871150	1 booklet	November 29, 2000
14899801 – 14899850	1 booklet	July 12, 2001
15361701 – 15361750	1 booklet	September 21, 2001
15918051 – 15918100	1 booklet	February 6, 2002
16369951 – 16370000	1 booklet	April 30, 2002
16370351 – 16370400	1 booklet	April 30, 2002
16370701 – 16370750	1 booklet	April 30, 2002
16370951 – 16371000	1 booklet	April 30, 2002
16371051 – 16371100	1 booklet	April 30, 2002
17897251 – 1789750	10 booklets	March 5, 2003
17898901 – 17899250	7 booklets	March 5, 2003
20987801 – 20987850	1 booklet	August 12, 2004
20989201 – 20989250	1 booklet	August 12, 2004
433901 – 433950	1 booklet	January 10, 2005
2044001 – 2046000	40 booklets	July 6, 2005
2955201 – 2956450	25 booklets	November 11, 2005

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862501 – 862750	5 booklets	
1325051 – 1325500	9 booklets	
Total	117 booklets & 87 pieces	

II. For the Fiduciary Fund (FF):**Scope of Audit (First Audit) – April 1, 2000 to March 31, 2006**

The audit of the court's Fiduciary Fund account showed an Unwithdrawn Fiduciary Fund outstanding balance of One Million Eighty-Five Thousand Six Hundred Thirty-Nine Pesos (₱1,085,639.00) as of March 31, 2006 and the reconciliation of the said balance against the court's LBP Savings Account disclosed a final shortage of Seven Hundred Seventy-Four Thousand Six Hundred Three Pesos & 91/100 (₱774,603.91). A detailed computation is presented below:

Beg. Balance of Unwithdrawn Fiduciary Fund as of 3/31/2000	₱ 332,500.00
Add: Cash bond collections dated 8/6/1997 of Case No. 23866 under OR No. 7786133 but excluded in the beginning balance of Unwithdrawn Fiduciary Fund as of 3/31/2000	<u>6,000.00</u>
Adjusted Beg. Balance of Unwithdrawn Fiduciary Fund as of 3/31/2000	₱ 338,500.00
Add: Collections (April 1, 2000 to March 31, 2000)	<u>1,327,039.00</u>
Total	[₱]1,637,539.00
Less: Withdrawals	<u>579,900.00</u>
Bal. of Unwithdrawn Fiduciary Fund as of 3/31/2006	<u>₱1,085,639.00</u>
 Bank Balance as of March 31, 2006	 ₱ 348,036.29
Less: Adjustment, Bank error dated September 3, 2004	<u>2,000.00</u>
Balance	₱ 346,036.29
Less: Unwithdrawn Interest (net of tax) as of 3/31/2006	
Jan. 1998-March 31, 2000 (previous audit) ₱ 15,612.36	
April 1, 2000-March 31, 2006 <u>19,388.84</u>	<u>35,001.20</u>
Adjusted Bank Balance as of March 31, 2006	<u>₱ 311,035.09</u>
 Balance of Unwithdrawn Fiduciary Fund as of 3/31/2006	 ₱1,085,639.00
Adjusted Bank Balance as of March 31, 2006	<u>311,035.09</u>
Balance of Accountability – shortage	₱ <u>774,603.91</u>

Scope of Audit (Second Audit) – April 1, 2006 to January 31, 2011

Beg. Balance of Unwithdrawn Fiduciary Fund as of 4/1/2006	₱1,085,639.00
Add: Collections (April 1, 2006 to January 31, 2011)	<u>591,000.00</u>
Total	[₱]1,676,639.00
Less: Withdrawals (April 1, 2006 to January 31, 2011)	<u>616,500.00</u>
Bal. of Unwithdrawn Fiduciary Fund as of January 31, 2011	<u>₱1,060,139.00</u>

Bank Balance as of Jan. 31, 2011	₱ 361,185.83
Less: Adjustment, Bank error dated September 3, 2004	<u>2,000.00</u>
Balance	₱ 359,185.83
Less: Unwithdrawn Interest (net of tax) as of 3/31/2006	
Jan. 1998 – March 31, 2006	₱ 35,001.20
Less: Withdrawal of interest	<u>350.46</u>
Balance	₱ 311,035.09
Less: Sheriff's Trust Fund collections deposited to this account	<u>39,000.00</u>
Adjusted Bank Balance as of January 31, 2011	₱ <u>285,535.09</u>
Balance of Unwithdrawn Fiduciary Funds as of January 31, 2011	₱1,060,139.00
Adjusted Bank Balance as of January 31, 2011	285,535.09
Balance of Accountability – shortage	₱ <u>774,603.91</u>

In sum, the balance of accountabilities of Ms. Tengco for Fiduciary Fund was increased by Thirty-Eight Thousand Pesos (₱38,000.00) from ₱746,603.91 in the partial report to ₱774,603.91 as of January 31, 2011 due to cash bonds received in Case Nos. SC 955-32873 & 32040, amounting to ₱12,000.00 and ₱16,000.00, respectively, which were not included in the lists of cash bond collections during the period of accountability of Ms. Tengco.

The outstanding deposits per bank statement in the fiduciary fund account during the accountability period of the former Clerk of Court, Ms. Elizabeth R. Tengco was already depleted by ₱29,964.91 as of January 31, 2011, computed as follows:

Bank Balance as of March 31, 2006	[₱] 346,036.29
Less (Adjustments):	
Unwithdrawn Interests-[Jan.] 1998 to [Mar.] 2006	[₱]35,001.20
Deposits (Ms. Leslie San Juan collections)	<u>16,500.00</u>
Adjusted Bank deposits – Ms. Tengco's term	[₱] 294,535.09
Withdrawals of cashbond – OR's issued by Ms. Tengco	[₱]326,500.00
Adjusted Bank deposits – Ms. Tengco's term	<u>294,535.09</u>
Over-withdrawal	[₱] <u>29,964.91</u>

III. For the Sheriff's Trust Fund (STF):

The examination of this fund disclosed neither shortage nor overage, computed as follows:

Beg. Unwithdrawn Sheriff's Trust Fund	[₱] -
Add: Total Collections (April 1, 2010 to January 31, 2011)	<u>39,000.00</u>
Total	[₱] 39,000.00
Less: Withdrawals	-
Unwithdrawn Sheriff's Trust Fund as of January 31, 2011	[₱] 39,000.00
Less: Deposited in the FF account	<u>39,000.00</u>
Balance of Accountability	[₱] <u>0.00</u>

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IV. Judiciary Development Fund (JDF) – April 1, 2000 to January 31, 2011**For Ms. Elizabeth R. Tengco – April 1, 2000 to February 26, 2006**

Total Collections	₱ 1,556,754.60
Less: Total Deposits	<u>936,603.21</u>
Balance of Accountability	₱ 620,151.39
Less: Payments from terminal leave of Ms. Tengco	<u>50,300.00</u>
Final Accountability	₱ <u>569,851.39</u>

An increase by [₱]630.00 from the initial report of ₱619,521.39 to ₱620,151.39 of the balance of accountability of Ms. Elizabeth R. Tengco, due to erroneous footings of deposit in the reconciliation statement of this account.

For Ms. Leslie San Juan – March 1, 2006 to January 31, 2011

Total Collections	₱ 379,614.06
Less: Total Deposits	<u>380,994.91</u>
Balance	₱ (1,380.85)
Less: Deposit in transit on 2/2/2011	96.00
Cash shortage incurred by Ms. San Juan,	
Deposited on February 24, 2011	<u>19.20</u>
Balance	[₱] (1,496.05)
Less: Erroneous deposits – SAJF collections deposited to this acct.	<u>(1,494.80)</u>
Over-remittance	[₱] (<u>1.25</u>)

The over-remittance during the accountability period of Ms. Leslie San Juan was due to Special Allowance for the Judiciary Fund (SAJF) collections erroneously deposited to this account and over-deposit of collection for the period April 2008 amounting to [₱]1,494.80 and [₱]1.25, respectively.

V. Special Allowance for the Judiciary Fund (SAJF) – Nov. 11, 2003 to January 31, 2011:**For Ms. Elizabeth R. Tengco – November 11, 2003 to February 26, 2006:**

Total Collections	₱ 292,748.60
Less: Total Deposits	<u>142,928.20</u>
Balance of Accountability	₱ 149,820.40
Less: Payments from terminal leave of Ms. Tengco	<u>25,225.00</u>
Final Accountability	₱ <u>124,595.40</u>

For Ms. Leslie San Juan – March 1, 2006 to January 31, 2011

Total Collections	₱ 865,885.80
Less: Total Deposits	<u>864,068.80</u>
Balance	₱ 1,817.00
Less: Deposit in transit on 2/2/2011	<u>404.00</u>

Balance	[P] 1,413.00
Less: Erroneous deposits to JDF account	<u>1,494.80</u>
Over-remittance	[P] (<u>81.80</u>)

VI. Clerk of Court General Fund (COCGF) – April 1, 2000 to November 10, 2003

For Ms. Elizabeth R. Tengco – April 1, 2000 to November 10, 2003

Total Collections	P 117,753.00
Less: Total Deposits	<u>52,887.99</u>
Final Accountability - shortage	P <u>64,866.00</u>

VII. Philippine Mediation Fund

For Ms. Elizabeth R. Tengco – January 1, 2005 to February 26, 2006

Total Collections	P 7,500.00
Less: Total Deposits	<u>6,500.00</u>
Final Accountability - shortage	P <u>1,000.00</u>

For Ms. Leslie San Juan – March 1, 2006 to January 31, 2011

Total Collections	P 178,000.00
Less: Total Deposits	<u>178,000.00</u>
Final Accountability - shortage	P <u>0.00</u>

In sum, the total final accountabilities of Ms. Elizabeth R. Tengco amounted to One Million Five Hundred Thirty Four Thousand Nine Hundred Sixteen Pesos & 70/100 (P1,534,916.70).

TOTAL ACCOUNTABILITIES

Nature of Funds	Accountabilities
Clerk of Court Fiduciary Fund	P 774,603.91
Judiciary Development Fund	569,851.39
Special Allowance for the Judiciary Fund	124,595.40
General Fund	64,866.00
Mediation Fund	1,000.00
TOTAL	P 1,534,916.70¹⁴

Taking note of the Decision dated April 7, 2010 of the Court in **A.M. No. P-07-2338**, entitled “*Jonathan A. Rebong v. Elizabeth R. Tengco, Clerk of Court, Municipal Trial Court, Sta. Cruz, Laguna*”¹⁵ finding Tengco liable for gross dishonesty and grave misconduct with the following penalties, viz.:

¹⁴ Rollo (A.M. No. P-13-3157), pp. 1-5.

¹⁵ 631 Phil. 457, 469-470 (2010).

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WHEREFORE, we find respondent Elizabeth R. Tengco liable for gross dishonesty and grave misconduct, and order the forfeiture of her retirement benefits. She is **BARRED** from future re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations.

The Financial Management Office, Office of the Court Administrator is hereby **DIRECTED** to process the terminal leave benefits of respondent, dispensing with the documentary requirements, and **REMIT** to the Municipal Trial Court, Sta. Cruz, Laguna the amounts of ₱50,300.00 representing collections for the JDF and ₱25,225.00 representing collections for the SAJ Fund, or the total amount of ₱75,525.00. The release of the remaining ₱103,080.72 of the terminal leave benefits of respondent shall be held in abeyance pending the resolution of *Judge Elpidio R. Calis v. Elizabeth R. Tengco* and *Office of the Court Administrator v. Elizabeth R. Tengco*.

Respondent Tengco is hereby **DIRECTED** to **PAY** complainant Jonathan A. Rebong, the ₱324,475.00 excess fees she collected from the latter.

The Legal Division of the Office of the Court Administrator is likewise **DIRECTED** to **INITIATE** appropriate criminal proceedings against respondent Tengco, with deliberate dispatch.

And with the Court's actions in the consolidated cases of A.M. Nos. P-06-2253 and P-07-2360, the OCA recommended that:

1. This report be docketed as an administrative complaint against former Clerk of Court Elizabeth R. Tengco, MTC, Sta. Cruz, Laguna;
2. The Financial Management Office, Office of the Court Administrator be **DIRECTED** to:
 - a. **PROCESS** the remaining balance of the previously computed monetary value of the earned leave credits of respondent Elizabeth R. Tengco, dispensing with the documentary requirements in the amount of ₱103,080.72, and **REMIT** to the Municipal Trial Court, Sta. Cruz, Laguna, as partial restitution of the shortages incurred in the Fiduciary Fund;
 - b. **COORDINATE** with the Fiscal Monitoring Division, Court Management Office, (FMD, CMO) OCA, before the release of the checks issued in favor of MTC, Sta. Cruz, Laguna for the FMD, CMO, OCA to prepare the necessary communication to the incumbent Clerk of Court of MTC, Sta. Cruz, Laguna, and to furnish the FMD, CMO, OCA with a copy of the machine validated deposit slip as proof of partial restitution of the shortages incurred in the Fiduciary Fund account, in order to finalize the herein

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audit; and

3. **Ms. Elizabeth R. Tengco**, former Clerk of Court II of the Municipal Trial Court, Sta. Cruz, Laguna, be **DIRECTED** within ten (10) days from notice to **PAY and DEPOSIT** the amount of ₱774,603.991, ₱569,851.39, ₱124,595.40, ₱64,866.00 and ₱1,000.00 representing shortages in the FF, JDF, SAJF, GF and MF, respectively, by depositing said amounts to their respective accounts.¹⁶

Acting on the findings and recommendation of the OCA, the Court issued a Resolution¹⁷ dated October 21, 2013 noting the foregoing Memorandum Report dated March 9, 2012; re-docketing the case as a regular administrative matter against Tengco; and adopting the recommendations of the OCA relative to the directive to the Financial Management Office (FMO) of the OCA.

On June 21, 2017, the Court consolidated A.M. No. P-13-3157 with A.M. Nos. P-06-2253 and P-07-2360.

The Court's Ruling

The Court sustains the findings and recommendations of the OCA.

As held in *Office of the Court Administrator v. Panganiban*,¹⁸ Clerks of Court, as custodians of court funds and revenues, have the duty to immediately deposit the various funds received by them to the authorized government depositories for they are not supposed to keep funds in their custody. Such functions are highlighted by OCA Circular Nos. 50-95 and 113-2004 and Administrative Circular No. 35-2004, which mandate Clerks of Court to timely deposit judiciary collections as well as to submit monthly financial reports on the same. And failure of the Clerk of Court to remit court funds is tantamount to *gross neglect of duty, dishonesty and grave misconduct*.

Records disclose in this case that there were missing 118 booklets of official receipts and 87 pieces of official receipts during Tengco's term as Clerk of Court of the MTC, Sta. Cruz, Laguna. From the Final Report of the Financial Audit Team, her total accountabilities amounted to ₱1,534,916.70, consisting of Clerk of Court Fiduciary Fund (₱774,603.91), Judiciary Development Fund (₱569,851.39), Special Allowance for the Judiciary Fund (₱124,595.40), General Fund (₱64,866.00), and Mediation Fund

¹⁶ Rollo (A.M. No. P-13-3157), pp. 5-6.

¹⁷ Id. at 52-53.

¹⁸ A.M. No. P-15-3368, November 8, 2016, citing *Re: Report on the Financial Audit Conducted at the Municipal Trial Court, Baliuag, Bulacan*, 753 Phil. 31, 37 (2015) and *Office of the Court Administrator v. Recio*, 665 Phil. 13, 33 (2011).

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(₱1,000.00). Evidently, Tengco was remiss in her duties to safeguard the receipts and to deposit on time the funds entrusted to her. She likewise failed to comply with Judge Calis's memoranda to explain, among other things, her failure to deposit fiduciary fund collections, to submit monthly report of collections, and to turn over all records in her possession. Her unexplained actions coupled with her absence without official leave lead the Court to conclude that she went into hiding to run away from her accountabilities. Such silence and inaction are indications of guilt. And considering the Decision of the Court in A.M. No. P-07-2338, these additional administrative cases against her speak eloquently of the gravity of her offenses, and should be characterized as gross in nature.

It must be emphasized that the safekeeping of funds and collections is essential to an orderly administration of justice, and no protestation of good faith can override the mandatory nature of the circulars designed to promote full accountability for government funds. Clerks of Courts and those acting in this capacity perform a delicate function as designated custodian of the court's funds, revenues, records, properties and premises. Hence, any loss, shortage, and destruction or impairment of those funds and property makes them accountable.¹⁹

Following the Court's ruling in *Office of the Court Administrator v. Panganiban*,²⁰ Tengco's actions and her continued refusal to make satisfactory explanations thereto make her liable for gross neglect of duty, dishonesty and grave misconduct, which merit the supreme penalty of dismissal.²¹

In view, however, of the Resolution dated August 15, 2007 wherein Tengco was already dropped from the service and her position declared vacant, the penalty of dismissal can no longer be imposed. Further, the Decision dated April 7, 2010 of the Court in A.M. No. P-07-2338 already barred her from future employment in any branch or instrumentality of the government, including government-owned or controlled corporations. Therefore, all that is left for the Court to do is process the remaining balance of previously computed monetary value of Tengco's earned leave credits to partly answer for her financial accountabilities to the Court; and direct the OCA to finally initiate criminal proceedings against her posthaste.

WHEREFORE, Elizabeth R. Tengco is held liable for gross neglect of duty, dishonesty, and grave misconduct.

¹⁹ *Office of the Court Administrator v. Dionisio*, A.M. No. P-16-3485, August 1, 2016.

²⁰ Supra note 18.

²¹ *Office of the Court Administrator v. Galo*, 373 Phil. 483, 492 (1999), cited in *Office of the Court Administrator v. Dionisio*, supra note 19.

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The Financial Management Office, Office of the Court Administrator is hereby **DIRECTED** to:

1. **PROCESS** the terminal leave benefits of Tengco, dispensing with the documentary requirements, and **REMIT** to the Municipal Trial Court, Sta. Cruz, Laguna the amounts of ₱103,080.72 representing partial restitution of the shortages in the Fiduciary Fund, and
2. **COORDINATE** with the Fiscal Monitoring Division (FMD, Court Management Office (CMO), OCA, before the release of the checks issued in favor of the MTC, Sta. Cruz, Laguna for the FMD, CMO, OCA to prepare the necessary communication to the incumbent Clerk of Court of the MTC, Sta. Cruz, Laguna, and to furnish the FMD, CMO, OCA with a copy of the machine validated deposit slip as proof of partial restitution of the shortages incurred in the Fiduciary Fund account, in order to finalize the herein audit.

Elizabeth R. Tengco, former Clerk of Court II of the Municipal Trial Court, Sta. Cruz, Laguna, is **DIRECTED** within ten (10) days from notice to **PAY and DEPOSIT** the amount of ₱774,603.91, ₱569,851.39, ₱124,595.40, ₱64,866.00, and ₱1,000.00 representing shortages in the Clerk of Court Fiduciary Fund, Judiciary Development Fund, Special Allowance for the Judiciary Fund, General Fund, and Mediation Fund, respectively, or a total of **₱1,534,916.70** by depositing said amounts to their respective accounts.

The Legal Division of the Office of the Court Administrator is likewise **DIRECTED** to **INITIATE** appropriate criminal proceedings against respondent Tengco, with deliberate dispatch.

SO ORDERED.


Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

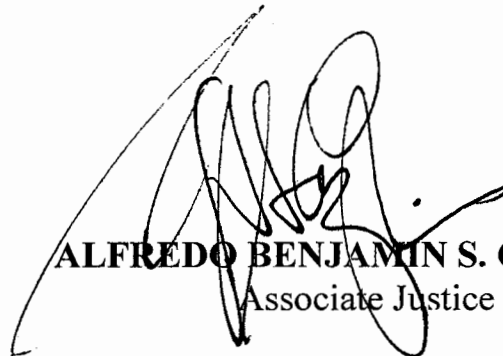
WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

On Official Leave
MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice