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2 **FOR PUBLICATION**

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5 **IN THE SUPERIOR COURT**
6 **FOR THE**
7 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

8 **COMMONWEALTH OF THE**) **CRIMINAL CASE NO. 03-0257B**
9 **NORTHERN MARIANA ISLANDS,**) **CRIMINAL CASE NO. 03-0258C**
10) **CRIMINAL CASE NO. 03-0286E**
11) **CRIMINAL CASE NO. 03-0300C**
12) **CRIMINAL CASE NO. 03-0301D**
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Plaintiff,
v.
MARY ANN DELA CRUZ INDALECIO,
Defendant.

**SENTENCE AND
COMMITMENT ORDER**

17 THIS MATTER came before the Court for a Sentencing on September 7, 2004, at 9:00 a.m.
18 in courtroom 220A of the Guma Hustisia/Imwal Aweewee on Saipan. The Commonwealth of the
19 Northern Mariana Islands was represented by Assistant Attorney General Janine R. Udui. Defendant
20 Maryann Dela Cruz Indalecio appeared with her counsel, Loren Sutton, Esq.

21 On January 28, 2004, the Defendant entered a guilty plea pursuant to a Plea Agreement, and
22 this Court found her guilty of:

- 23
24 1. **Theft by Deception**, in violation of 6 CMC § 1603(a); and of **Issuance of a Bad**
25 **Check**, in violation of 6 CMC § 1704(c), as charged in **Counts I and II**,
26 respectively, of the Information filed on July 28, 2003 in Criminal Case No. 03-
0257B;

- 1 2. **Theft by Deception** in violation of 6 CMC § 1603(a) as charged in **Counts I and**
2 **II**; and **Issuance of a Bad Check**, in violation of 6 CMC § 1704(c), as charged in
3 **Counts III and IV**, of the Information filed on July 28, 2003, in Criminal Case No.
 03-0258C;
- 4 3. **Issuance of a Bad Check**, in violation of 6 CMC § 1704(c), as charged in **Counts**
5 **VI, VII, VIII, IX, and X**, of the Information filed on September 25, 2003, in
 Criminal Case No. 03-0286E;
- 6 4. **Theft by Deception**, in violation of 6 CMC § 1603(a); and of **Issuance of a Bad**
7 **Check**, in violation of 6 CMC § 1704(c), as charged in **Counts I and II**,
8 respectively, of the Information filed on October 1, 2003 in Criminal Case No. 03-
 0300C; and
- 9 5. **Issuance of a Bad Check**, in violation of 6 CMC § 1704(c), as charged in **Counts**
10 **V, VI, VII, VIII**, of the Information filed on October 1, 2003, in Criminal Case No.
11 03-0301D.

12 The Court further finds that in this case, for each crime of **Theft by Deception**, Defendant
13 is subject under 6 CMC § 1601(b)(2) and 6 CMC § 4101(b) to a sentence of a minimum of no jail
14 time to a maximum of five (5) years imprisonment; or to a minimum of no fine to a maximum of
15 \$5,000 fine; or both. For each crime of **Issuance of a Bad Check**, Defendant is subject under 6
16 CMC §§ 1601(b)(2) and 4101(b) to a sentence of a minimum of no jail time to a maximum of five
17 (5) years imprisonment; or to a minimum of no fine to a maximum of \$5,000; or both, except for
18 **Counts V, VI, VII, and VIII** in **Criminal Case No. 03-0301D**, in which Defendant is subject under
19 6 CMC §§ 1601(b)(3) and 4101(c) to a minimum of no jail time to a maximum of one (1) year
20 imprisonment, or a minimum of no fine to a maximum of \$1,000 fine, or both. In total, Defendant
21 faces a maximum term of sixty-nine (69) years of imprisonment.
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24 **SENTENCE**

25 In these five criminal cases, the victims of these crimes are all private businesses. Three of
26 the five businesses were victimized twice by the same Defendant, counting the uncharged case.
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1 Each of the five businesses, in good faith, sold items to the Defendant with the expectation to be
2 paid. The Defendant at each occasion issued a check that she knew would not be honored by her
3 bank because she lacked the funds. The underlying incidents span a period of about one year, from
4 June 2002, to as recently as May 2003. The items she received from these transactions range from
5 small, inexpensive construction items such as rebar, bags of cement, and hollow blocks, to large
6 expensive items such as air conditioners, freezers, and a computer laptop. Having reviewed all these
7 items, one would think that a fair and simple resolution to minimize the damage inflicted on each
8 of these businesses is to return the goods. However, as explained by the Defendant herself, she
9 cannot do so because she pawned them for cash. So what then did the Defendant do with the cash?
10 Pay off her creditors she explains, as well as provide for her family.
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13 First, the old adage “crime does not pay” comes to mind. Defendant claims she used some
14 of the cash she received from pawning the store goods to pay her creditors. However, the private
15 attorney for 41 judgment creditors of the Defendant reported that Defendant owed a total of
16 \$47,027.44 as of July 2004, and that although the Defendant was ordered on April 12, 2004 to pay
17 the balance of these judgments at the rate of \$50.00 bi-weekly, she has failed to make any payments
18 as required by the Court’s order. Furthermore, on the same date she was ordered to make the partial
19 payments, the Defendant resigned from her job citing the “low pay” of \$3.05 per hour and
20 “strenuous tasks” as a sales clerk. The Defendant’s conduct in this instance do not show any
21 remorse or sincerity of her intent to make her victims whole. At the same time, the Court has been
22 informed that the Defendant managed to pay another judgment creditor the full judgment balance
23 of \$777.60 on July 8, 2004, even though she reported that she is currently unemployed. She paid
24 this one creditor by raising money selling hot lunches. Although this Court commends the
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1 Defendant for paying one of her creditors, the Court is troubled that she unilaterally decided to
2 disregard the Court's April 2004, payment order by failing to make any of the minimum bi-weekly
3 payments to the other 41 judgment creditors but instead paid another creditor more than \$700 at one
4 time. Again, she has not shown any sincere intent to pay all her creditors and make them whole.
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6 Second, this society does not allow people to "steal from Peter to pay Paul." The Court has
7 reviewed the Pre-sentence Investigation Report, and finds that the Defendant is a young woman
8 capable of working, yet she chooses to be unemployed. The Defendant is married and has one child,
9 yet she does not exhibit a sense of financial responsibility. She comes from a large family, being
10 the youngest among ten brothers and sisters. With such a large source of family support,
11 compensating her victims should be possible. Instead, Defendant is still in a serious financial bind.
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13 Given the potential 69 years of imprisonment she is facing for these convictions, the Court
14 expects the Defendant to be more diligent about taking responsibility for all of her actions. Just
15 because the Defendant appeared before her victims before victimizing them does not make these
16 crimes any less repulsive. Committing the crimes of theft by deception, or issuance of a bad check,
17 does not make her any less of a criminal than a thief in the night. Defendant's repeated conduct
18 needs to be stopped and be deterred.
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20 Although the Defendant does not have any history with the criminal justice system, the Court
21 is concerned about the Defendant's long history with financial problems. One of her former
22 employers stated that "as an employee she performed her job and has good relation to her co-worker.
23 ***But when it comes to money, it was always her problem.***" The small claims and civil action records
24 support this statement. According to the Pre-sentence Investigation Report, Defendant has 41
25 judgment creditors with the Law Offices of White, Pierce, Mailman & Nutting, one case with the
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1 Law Offices of Robert T. Torres, and eight cases with the Law Offices of Joshua Berger. Looking
2 at the names of the different plaintiffs in the small claims and civil action cases, it is apparent that
3 the Defendant spared no one in the business community.
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5 The Court is convinced that the Defendant has a serious financial problem arising from a
6 source she has not identified. She apparently does not consume alcoholic beverages or abuse illicit
7 drugs. However, there is a concern about her playing poker. Her husband suspects it, based on
8 information he received from other family members. Although Defendant has not openly admitted
9 to any addiction to playing poker, her financial quandary speaks for her.
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11 Based on the foregoing facts, this Court finds that a jail sentence is necessary to deter the
12 Defendant as well as other people from committing these white collar crimes because they do cause
13 a serious harm to the members of the community. The damage inflicted is not limited to the
14 business owners, but also the employees who want to be paid promptly and who want to have job
15 security, the creditors of the businesses who want to extend credit to the business operators, and the
16 consumers who end up paying the additional costs incurred by the businesses to protect themselves
17 from being defrauded again.
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19 In view of the foregoing facts, this Court hereby sentences Defendant MaryAnn Dela Cruz
20 Indalecio as follows:

- 21 1. In Criminal Case No. 03-0257B, for **Count I, Theft by Deception**, in violation
22 of 6 CMC 1603(a), Defendant shall be imprisoned for a term of five (5) years, all
23 suspended except for two years; and for **Count II, Issuance of a Bad Check**, in
24 violation of 6 CMC 1704(c), Defendant shall be imprisoned for a term of **five (5)**
25 **years, all suspended except for two years. The five year sentences shall run**
***consecutively*, but the two years of imprisonment shall be served**
concurrently.
- 26 2. In Criminal Case No. 03-0258C, for **Counts I and II, Theft by Deception** in
27 violation of 6 CMC § 1603(a), Defendant shall be imprisoned for a term of **five**
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1 (5) years each, all suspended except for two years each; and for Counts III
2 and IV, Issuance of a Bad Check, in violation of 6 CMC § 1704(c), Defendant
3 shall be imprisoned for a term of five (5) years, all suspended except for two
4 years. The five year sentences shall run concurrently, and the two years of
5 imprisonment shall be served concurrently.

6 3. In Criminal Case No. 03-0286E, for Counts VI, VII, VIII, IX, and X, Issuance
7 of a Bad Check, in violation of 6 CMC § 1704(c), Defendant shall be imprisoned
8 for a term of five (5) years each, all suspended except for two years each. The
9 sentences shall all run concurrently.

10 4. In Criminal Case No. 03-0300C, for Count I, Theft by Deception, in violation
11 of 6 CMC § 1603(a); Defendant shall be imprisoned for a term of five (5) years,
12 all suspended except for two years; and for Count II, Issuance of a Bad
13 Check, in violation of 6 CMC 1704(c), Defendant shall be imprisoned for a term
14 of five (5) years, all suspended except for two years. The five year sentences
15 shall run consecutively, but the two years of imprisonment shall be served
16 concurrently.

17 5. In Criminal Case No. 03-0301D, for Counts V, VI, VII, VIII, Issuance of a Bad
18 Check, in violation of 6 CMC § 1704(c), Defendant shall be imprisoned for a
19 term of one (1) year each. The sentences shall run concurrently.

20 6. The terms of actual imprisonment shall all run concurrently in these five cases.
21 The Defendant shall report to the Division of Corrections for a term of two years
22 commencing on September 21, 2004 at 8:00 a.m.

23 These sentences are subject to the following terms and conditions:

- 24 1. The Defendant shall be on supervised probation during the suspended sentence,
25 under the direction and supervision of the Office of Adult Probation. The
26 Defendant shall observe all directives imposed by the Office of Adult Probation;
- 27 2. The Defendant shall write a letter of apology to the victims in this case, and
28 submit it to her probation officer within thirty days, and one letter shall be
published in a local newspaper;
3. The Defendant shall pay restitution to the victims. The parties shall meet and
discuss a stipulated restitution amount, and submit such an amount to the Court

1 within sixty days. If the parties are unable to reach an agreement, the Court will
2 schedule a sentencing hearing to make the final determination;

3 4. The Defendant shall submit herself for an evaluation by the Community Guidance
4 Center (“CGC”) for counseling and/or treatment, and shall comply with any
5 recommendation by CGC;
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7 5. The Defendant shall seek and maintain full-time employment (“seek” is defined
8 as submitting at least ten job applications per week, and “full-time” is defined as
9 working at least 32 hours per week);
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11 6. The Defendant shall perform five hundred (500) hours of community work
12 service at a minimum of 20 hours per month if she is unemployed, and a
13 minimum of 8 hours per month if she is employed;

14 7. The Defendant shall pay a fine of \$100;

15 8. The Defendant shall pay the \$100 court assessment fee within 30 days of her
16 sentence pursuant to Public Law 11-105;

17 9. The Defendant shall pay an annual probation fee of \$100 pursuant to Public Law
18 11-82, at a minimum rate to be determined by the probation officer;

19 10. The Defendant shall obey all Commonwealth, Federal, and State laws (minor
20 traffic infractions excluded).
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22 Pursuant to the Plea Agreement, the Defendant is ordered to pay restitution in the uncharged
23 criminal case, for Check No. 203 drawn on the Account of Mary Ann Dlc. Indalecio, Bank Pacific
24 Account No. 7005-112707, made payable to JD’s Appliance Store in the amount of \$486.55; and
25 for Check No. 20, in the amount of \$486 written on Bank Pacific Account No. 7005-112707, made
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1 payable to JD's Appliance Store.

2 Failure to comply with any of the above terms and conditions shall constitute a violation of
3 the terms and conditions of the suspended sentence and shall subject the Defendant to revocation
4 proceedings.
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6 After the sentence was pronounced, the Defendant was advised that she has the right to
7 appeal the Court's sentence within thirty (30) days from the date of the entry of this order.

8 IT IS SO ORDERED this 7th day of September 2004.

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10 /s/ _____
11 RAMONA V. MANGLONA, Associate Judge
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