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FOR PUBLICATION

IN THE SUPERIOR COURT

OF THE

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE THE MATTER OF:

DISCIPLINARY CASE NO. 2010-01

ORDER OF ATTORNEY DISCIPLINE

**RE: DISBARMENT OF
JOSEPH A. ARRIOLA AKA
JOEY ALDAN ARRIOLA**

**JOSEPH A. ARRIOLA
ALSO KNOWN AS
JOEY ALDAN ARRIOLA
(Bar No. F0216),**

I. INTRODUCTION

On July 13, 2010, the Chief Justice of the CNMI Supreme Court received a certification of a felony conviction from the Clerk of the U.S. District Court of the Northern Mariana Islands for Joey Aldan Arriola, certifying that he had been convicted of two counts of wire fraud.

On July 16, 2010, the Supreme Court issued an Order of Disbarment which was subsequently vacated by way of a Supreme Court Order of August 2, 2010, which also referred the matter to the Presiding Judge as required by the Commonwealth Disciplinary Rules (hereinafter “CDR”) and Rule 13 (C) thereof. The Presiding Judge designated the matter to the undersigned for proceeding pursuant to the CDR. As such, this matter proceeded pursuant to Rule 2, 9, and 13 of the CDR.¹

¹Pursuant to Rule 2 of the CDR once there is a final conviction, the judgment and sentence shall be conclusive evidence at a disciplinary hearing of as statutory violation upon which it is based.

1 The Court issued an Order to Show Cause why Mr. Arriola should not be immediately restrained
2 from engaging in the practice of law. A closed hearing to determine the sole issue of disciplinary
3 sanctions was held on August 26, 2010. Joey Aldan Arriola appeared *Pro Se*. He understood that the
4 purpose of the hearing was to determine the discipline that was to be imposed on him.

5 Mr. Arriola presented an articulate statement to the Court which was well composed and
6 reflected upon his remorse, and the damage that he had caused to so many people. He also expressed his
7 high respect for the Court and expressed his apologies to the Judiciary in general and to this Court. He
8 attributed his downfall and conviction to an addiction to drugs and alcohol, which he is determined to
9 rule out of his life and claims to be on a course of conduct to do just that. At the time of this hearing,
10 Mr. Arriola was under house arrest and was awaiting his transfer to a federal prison to commence
11 serving his fifty-eight (58) month sentence. He was allowed to appear in this Court pursuant to a Court
12 Order from the U.S. District Court. He has been drug tested by the probation office on a regular basis
13 and believes that he is on the road to recovery.

14 Mr. Arriola expressed his fervent desire to one day resume the practice of law before this Court
15 and acknowledges that if he is disbarred, he would not be eligible to apply for readmission for a period
16 of five years. He referred to some jurisdictions that have recognized attorney addiction to drugs and
17 alcohol as a mitigating factor, even for attorneys convicted of felonies and argued that based on such
18 mitigation those courts have opted for suspension rather than disbarment. Mr. Arriola then requested
19 that this Court follow those jurisdictions and suspend him for a period of five years, rather than
20 disbarment. He further proposed several conditions that this Court should impose upon him for any
21 application for readmission.

22 23 **II. DISCUSSION**

24 A Court must be extremely diligent in protecting and upholding the integrity and decorum of the
25 judicial system. The public's confidence in the judicial system depends on it. A main factor in pursuing

1 this constant diligence is to regulate the attorneys who practice law before the Court and to assure that
2 attorneys do not engage in conduct that disparages the administration of justice. The Court has set forth
3 disciplinary rules and procedures for persons practicing law in the Courts of the CNMI, and like most
4 States, has adopted the Model Rules of Professional Conduct (hereinafter “MRPC”) of the American Bar
5 Association.²

6 As stated in the Preamble to the ABA Model Rules of Professional Conduct (hereinafter “Model
7 Rules”), “[t]he legal profession’s relative autonomy carries with it special responsibilities of self-
8 government. The profession has a responsibility to assure that its regulations are conceived in the public
9 interest and not in furtherance of parochial or self-interested concerns of the bar. This view of the
10 professional relationship requires lawyers to observe the ethical requirements that are set out in the
11 Model Rules. It is essential to maintain the integrity of the profession. Rule 8.4 of the Model Rules
12 deals with “misconduct” as set forth below.

13 It is professional misconduct for a lawyer to:

- 14 (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or
15 induce another to do so, or do so through the acts of another;
- 16 (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or
17 fitness as a lawyer in other respects;

18
19 ²The Court would like to note that the purpose of a disciplinary proceeding is not punitive in nature, but instead is to
20 inquire into the fitness of the lawyer to continue in his/her capacity for the protection of the public, the courts, and the legal
21 profession. In addition to the duties owed to clients, the lawyer also owes a duty to the general public. Members of the public
22 are entitled to be able to trust lawyers to protect their property, liberty, and their lives. The community expects lawyers to
23 exhibit the highest standard of honesty and integrity, and lawyers have a duty not to engage in conduct involving dishonesty,
24 fraud, or interference with the administration of justice. Lawyers also owe duties to the legal system. Lawyers are Officers of
25 the Court, and must abide by the rules of substance and procedure which shape the administration of justice.

- 1 (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- 2 (d) engage in conduct that is prejudicial to the administration of justice;
- 3 (e) state or imply an ability to influence improperly a government agency or official or to
- 4 achieve results by means that violate the Rules of Professional Conduct or other law; or
- 5 (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable
- 6 rules of judicial conduct or other law.

7 Mr. Arriola, having been convicted of the two counts of wire fraud is deemed in violation of
8 sections (a) through (f) as listed above. The crime of wire fraud is a crime of moral turpitude *per se* and
9 is also one of fraud and dishonesty. Such criminal conduct reflects adversely on an attorney's honesty,
10 trustworthiness, and fitness as a lawyer. Therefore, an attorney with such convictions should be
11 punished appropriately by way of this Court imposing a disciplinary result that will assure the public's
12 confidence in the Judiciaries' regulation of the attorneys practicing in the CNMI.

13 This is a matter of first impression in the CNMI with respect to an attorney being disciplined for
14 felony convictions, and it is therefore imperative, that the proper discipline be given in order to set the
15 standard for other attorneys practicing law here in the CNMI.³

16 Generally disbarment is usually imposed as a sanction for conduct indicating that an attorney is
17 not fit to practice law, willfully disregarding the interests of a client, or engaging in fraud which impedes
18 the administration of justice. Any lawyer who is convicted of a felony is usually automatically disbarred
19 in most jurisdictions, especially when it involves a crime of moral turpitude, dishonesty, or fraud.

20 The CDR provides that a conviction stands as conclusive evidence of misconduct and subjects an
21 attorney to the discipline of this Court and to the principles stated herein regarding attorney discipline.
22 In determining the appropriate sanction, the Court has considered the underlying actions that led to Mr.

23
24 ³Although another attorney, licensed in the CNMI, was convicted of one or more felonies a few years ago, the
25 disciplinary case due to logistical problems, has not yet concluded.

1 Arriola's conviction of wire fraud. Mr. Arriola knowingly converted client property in the form of estate
2 funds for his own personal use or benefit, thus causing injury to several individuals.

3 The majority of jurisdictions impose disbarment for a lawyer who has been convicted of a felony,
4 which is the policy that this Court believes should be adopted, subject of course to any extenuating or
5 mitigating circumstances warranting a deviation from such discipline to a lesser type sanction such as
6 suspension.⁴

7 The Court after making the initial determination as to the appropriate sanction of disbarment, has
8 considered any relevant aggravating or mitigating factors. The only mitigating factor in this case is Mr.
9 Arriola's proclaimed drug and alcohol addiction. However, this is only a proper factor for the Court to
10 consider if the Court finds that there is a chemical dependency and the following factors are also shown
11 to exist:

- 12 (1) there is medical evidence that he is affected by a chemical dependency;
- 13 (2) the chemical dependency caused the misconduct;
- 14 (3) his recovery from the chemical dependency is demonstrated by a rehabilitation; and
- 15 (4) the recovery arrested the misconduct and recurrence of that misconduct is unlikely.

16 The Court cannot make such findings based on what was presented to this Court, and therefore,
17 does not find any mitigating factors present.

18 With respect to aggravating factors, the Court finds that there are many, most of which are
19 substantial. Mr. Arriola was a fugitive from justice for approximately one and a half years and had to be
20 officially escorted to the CNMI from the Republic of Philippines.

21 When he absconded from Saipan he abandoned his law office, clients, and their files. There were
22 many former clients of Mr. Arriola who had important pending matters being represented by him, in and
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24 ⁴ Disbarment is the removal of a lawyer from a bar association and/or the practice of law which thus revokes his or
25 her law license and/or admission to practice law.

1 out of Court, and when they followed up on the status of their cases and their files, there were none to be
2 found, and no one left to contact. There were absolutely no provisions made for the many clients he
3 represented, and no refund of unearned fees that were paid by clients in some cases, which indicates a
4 callous and gross indifference for the Judiciary and the clients he agreed to represent. In addition, there
5 were several formal complaints filed with the CNMI Bar Association that have not yet been acted upon.
6 In view of such aggravating factors, the Court believes that the imposition of disbarment along with
7 several conditions for any future readmission is warranted.

8 In conclusion, the Court believes that Mr. Arriola's misconduct has resulted in serious injuries to
9 many former clients, to the public, and to the legal system and finds that the appropriate discipline is
10 disbarment.

11 **IT IS HEREBY ORDERED:**

- 12 a. Joey Aldan Arriola is hereby disbarred from practicing law in the Courts or otherwise in
13 the CNMI and his name is stricken from the roll of admitted attorneys.
- 14 b. Respondent shall comply with all provisions of Rule 15 of the CDR which include among
15 other things, notices to clients and others and certifications to the Court.
- 16 c. In view of Respondent's imminent incarceration at the time of this writing, the Court will
17 waive the ten (10) day time period in said rule, and allow Respondent a reasonable time,
18 not to exceed ninety (90) days, to comply with said rule.
- 19 d. Respondent shall pay any costs for the prosecution of his matter. This amount shall also
20 be paid to the Court.
- 21 e. Prior to any re-admission to practice law before the Courts of the Commonwealth,
22 Respondent shall take and pass the CNMI Bar Exam including the Multistate Professional
23 Responsibility Examination.
- 24 f. Respondent shall satisfy all terms and conditions of any judgments of this Court that may
25 be outstanding.

1 g. Respondent shall pay to any and all clients the sum of any unearned retainer fees.
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3 **SO ORDERED this 8th day of September, 2010.**
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5 /s/
6 David A. Wiseman, Associate Judge
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