

1 The Court has and is proceeding in this matter pursuant to Rule 13 of the Disciplinary Rules and
2 Procedure for persons practicing law in the Courts of the Commonwealth of the Northern Mariana
3 Islands.

4 The Supreme Court received a certified conviction from the U.S. District Court of Guam in
5 October of 2010 and referred this matter to the Presiding Judge as required by the Commonwealth
6 Disciplinary Rules (hereinafter “CDR”) and Rule 13 (C) thereof. The Presiding Judge designated the
7 undersigned to handle the proceeding pursuant to the CDR. As such, this matter proceeded pursuant to
8 Rule 2, 9, and 13 of the CDR.¹

10 II. DISCUSSION

11 A Court must be extremely diligent in protecting and upholding the integrity and decorum of the
12 judicial system. The public’s confidence in the judicial system depends on it. A main factor in pursuing
13 this constant diligence is to regulate the attorneys who practice law before the Court and to assure that
14 attorneys do not engage in conduct that disparages the administration of justice. The Court has set forth
15 disciplinary rules and procedures for persons practicing law in the Courts of the CNMI, and like most
16 States, has adopted the Model Rules of Professional Conduct (hereinafter “MRPC”) of the American Bar
17 Association.²

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

21 ²The Court would like to note that the purpose of a disciplinary proceeding is not punitive in nature, but instead is to
22 inquire into the fitness of the lawyer to continue in his/her capacity for the protection of the public, the courts, and the legal
23 profession. In addition to the duties owed to clients, the lawyer also owes a duty to the general public. Members of the public
24 are entitled to be able to trust lawyers to protect their property, liberty, and their lives. The community expects lawyers to
25 exhibit the highest standard of honesty and integrity, and lawyers have a duty not to engage in conduct involving dishonesty,

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

8 It is professional misconduct for a lawyer to:

- 9 (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or
10 induce another to do so, or do so through the acts of another;
- 11 (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or
12 fitness as a lawyer in other respects;
- 13 (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- 14 (d) engage in conduct that is prejudicial to the administration of justice;
- 15 (e) state or imply an ability to influence improperly a government agency or official or to
16 achieve results by means that violate the Rules of Professional Conduct or other law; or
- 17 (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable
18 rules of judicial conduct or other law.

19 Mr. Aguilar, having been convicted of the two felony counts of laundering of money instruments
20 is deemed in violation of sections (a) through (e) as listed above. The crime of money laundering is a
21 crime of moral turpitude *per se* and is also one of fraud and dishonesty. Such criminal conduct reflects
22 adversely on an attorney’s honesty, trustworthiness, and fitness as a lawyer. Therefore, an attorney with
23

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 such convictions should be punished appropriately by way of this Court imposing a disciplinary result
2 that will assure the public's confidence in the Judiciaries' regulation of the attorneys practicing in the
3 CNMI.

4 This is the second incident with respect to an attorney being disciplined for felony convictions,
5 and it is therefore imperative, that the proper discipline be given in order to set the standard for other
6 attorneys practicing law here in the CNMI.³

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

11 The CDR provides that a conviction stands as conclusive evidence of misconduct and subjects an
12 attorney to the discipline of this Court and to the principles stated herein regarding attorney discipline.

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

17 The Court having made an initial determination that the appropriate sanction is to be disbarment,
18 now considers any relevant aggravating or mitigating factors. The Court has not been presented with
19 any mitigating factors. However, the Court does find aggravating factors, which are considered
20 substantial.

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

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 When Danilo T. Aguilar was convicted on Guam he abandoned his law office, clients, and their
2 files on Saipan. There were many former clients of Mr. Aguilar who had paid legal fees to his office and
3 had important pending matters being represented by him, in and out of Court, and when they followed
4 up on the status of their cases and their files, there were none to be found, and they were left to deal with
5 his secretary. There were absolutely no provisions made for the many clients he represented, and no
6 refund of unearned fees that were paid by clients in several cases, which indicates a callous and gross
7 indifference for the Judiciary and the clients he agreed to represent. In view of such aggravating factors,
8 the Court believes that the imposition of disbarment along with several conditions for any future
9 readmission is warranted.⁵

10 In addition to duties owed to clients, the lawyer also owes duties to the general public. Members
11 of the public are entitled to be able to trust lawyers to protect their property, liberty, and their lives. The
12 community expects lawyers to exhibit the highest standards of honesty and integrity, and lawyers have a
13 duty not to engage in conduct involving dishonesty, fraud, or interference with the administration of
14 justice. Lawyers also owe duties to the legal system. Lawyers are officers of the court, and must abide
15 by the rules of substance and procedure which shape the administration of justice. Lawyers must always
16 operate within the bounds of the law, and cannot create or use false evidence, or engage in any other
17 illegal or improper conduct.

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19 ⁵The Court takes judicial notice that the Supreme Court of Guam has summarily suspended Danilo T. Aguilar for 5
20 years. This Court could impose reciprocal discipline pursuant to Rule 14, however this proceeding is pursuant to Rule 13
21 which provides for attorney's convicted of crimes. If this Court were to suspend Danilo T. Aguilar the Court would follow
22 the recommendations of the American Bar Association standards for imposing attorney discipline which provides that
23 suspension should be no more than 3 years. Three years in this Court's view is too lenient for the misconduct that is present
24 in this case, to maintain those previous mentioned goals of maintaining the public's confidence and the integrity of the legal
25 profession to ensuring the proper administration of justice.

1 In conclusion, the Court believes that Mr. Aguilar's misconduct has resulted in serious injuries to
2 the legal profession, many former clients, to the public, and to the legal system in general and finds that
3 the appropriate discipline is disbarment.⁶

4 **IT IS HEREBY ORDERED:**

- 5 a. Danilo T. Aguilar is hereby disbarred from practicing law in the Courts or otherwise in
6 the CNMI and his name is stricken from the roll of admitted attorneys of the CNMI Bar.
- 7 b. Respondent shall comply with all provisions of Rule 15 of the CDR which include among
8 other things, notices to clients and others and certifications to the Court.
- 9 c. Respondent shall pay any costs for the prosecution of his matter. This amount shall also
10 be paid to the Court.
- 11 d. Prior to any re-admission to practice law before the Courts of the Commonwealth,
12 Respondent shall take and pass the CNMI Bar Exam including the Multistate Professional
13 Responsibility Examination.
- 14 e. Respondent shall satisfy all terms and conditions of any judgments of this Court that may
15 be outstanding.
- 16 f. Respondent shall pay to any and all clients the sum of any unearned retainer fees.

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18 **SO ORDERED this 18th day of October, 2011.**

19
20 /s/ _____

21 David A. Wiseman, Associate Judge

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⁶The CDR provide that a disbarred attorney can not apply for readmission until 5 years after his disbarment.