

OCT 29 2003

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**THE STATE BAR COURT**

**HEARING DEPARTMENT - LOS ANGELES**

In the Matter of  
**CONSUELO T. ANCOG,**  
Member No. 178642,  
A Member of the State Bar.

Case No. 02-O-13616; 03-O-01370-PEM  
(Cons.)

**DECISION INCLUDING DISBARMENT  
RECOMMENDATION AND  
INVOLUNTARY INACTIVE  
ENROLLMENT ORDER**

**INTRODUCTION**

The above-entitled matter was submitted for decision as of July 31, 2003, after the State Bar of California, Office of the Chief Trial Counsel ("State Bar") filed a Statement Re Default and Waiver of Hearing. The State Bar was represented in this matter by Deputy Trial Counsel Monique Miller ("DTC Miller").<sup>1</sup> Respondent Consuelo T. Ancog ("Respondent") failed to participate in this matter either in-person or through counsel and allowed her default to be entered in this matter.

In light of Respondent's culpability in this proceeding, and after considering any and all aggravating and mitigating circumstances surrounding Respondent's misconduct, the court recommends that Respondent be disbarred from the practice of law and that her name be stricken from the roll of attorneys in this state. It is also recommended that Respondent be ordered to comply with rule 955 of the California Rules of Court.

**PERTINENT PROCEDURAL HISTORY**

This proceeding was initiated by the State Bar's filing of a Notice of Disciplinary Charges

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<sup>1</sup>The State Bar had earlier been represented in this proceeding by Deputy Trial Counsel Lee Ann Kern ("DTC Kern").



1 (“NDC”) against Respondent in Case No. 02-O-13616 on April 15, 2003.

2 A copy of the NDC was properly served upon Respondent on April 15, 2003, by certified  
3 mail, return receipt requested, addressed to Respondent at her official membership records address  
4 (“official address”) maintained by Respondent pursuant to Business and Professions Code section  
5 6002.1, subdivision (a).<sup>2</sup> There is no evidence as to whether or not the copy of the NDC was  
6 returned to the State Bar by the U.S. Postal Service.

7 On April 22, 2003, a Notice of Assignment and Notice of Initial Status Conference was filed  
8 in Case No. 02-O-13616, setting a telephonic status conference for May 27, 2003. A copy of said  
9 notice was properly served upon Respondent by first-class mail, postage fully prepaid, on April 22,  
10 2003, addressed to Respondent at her official address. The copy of said notice was not returned to  
11 the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

12 On April 29, 2003, the State Bar filed a NDC against Respondent in Case No. 03-O-01370.  
13 A copy of the NDC was properly served upon Respondent on April 29, 2003, by certified mail,  
14 return receipt requested, addressed to Respondent at her official address.<sup>3</sup> There is no evidence as  
15 to whether or not the copy of the NDC was returned to the State Bar by the U.S. Postal Service.

16 On May 8, 2003, a Notice of Assignment and Notice of Initial Status Conference was filed  
17 in Case No. 03-O-01370, setting a telephonic status conference for May 27, 2003. A copy of said  
18 notice was properly served upon Respondent by first-class mail, postage fully prepaid, on May 8,  
19 2003, addressed to Respondent at her official address. The copy of said notice was not returned to  
20 the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

21 On May 27, 2003, the court held a status conference in both Case No. 02-O-13616 and Case  
22 No. 03-O-01370. Respondent did not appear at the status conference either personally or through  
23 counsel. Thereafter, on May 27, 2003, the court filed a Status Conference Order consolidating Case  
24 No. 02-O-13616 and Case No. 03-O-01370 and indicating that the matter would proceed by default.

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26 <sup>2</sup>On March 26, 2003, a 20-day letter in Case No. 02-O-13616 was mailed to Respondent  
27 at her official membership records address. Respondent did not respond to the 20-day letter.

28 <sup>3</sup>On April 7, 2003, a 20-day letter in Case No. 03-O-01370 was mailed to Respondent at  
her official membership records address. Respondent did not respond to the 20-day letter.

1 A copy of said order was properly served upon Respondent by first-class mail, postage fully prepaid,  
2 on May 27, 2003, addressed to Respondent at her official address. The copy of said order was not  
3 returned to the State Bar Court by the U.S. Postal Service as undeliverable or for any other reason.

4 As Respondent did not file a response to either NDC as required by rule 103 of the Rules of  
5 Procedure of the State Bar of California (“Rules of Procedure”), on May 29, 2003, the State Bar filed  
6 a motion for the entry of Respondent’s default. The motion also contained a request that the court  
7 take judicial notice, pursuant to Evidence Code section 452(h), of all of Respondent’s official  
8 membership addresses,<sup>4</sup> the declaration of Lee Ann Kern and Exhibit 1. A copy of said motion was  
9 properly served upon Respondent on May 28, 2003, by certified mail, return receipt requested,  
10 addressed to Respondent at her official address. There is no evidence as to whether or not the copy  
11 of said motion was returned to the State Bar by the U.S. Postal Service.

12 When Respondent failed to file a written response within 10 days after service of the motion  
13 for the entry of his default, on June 17, 2003, the court filed an Order of Entry of Default (Rule 200 -  
14 Failure to File Timely Response), Order Enrolling Inactive and Further Orders.<sup>5</sup> A copy of said order  
15 was properly served upon Respondent on June 17, 2003, by certified mail, return receipt requested,  
16 addressed to Respondent at her official address. The copy of said order was returned to the State Bar  
17 Court by the U.S. Postal Service marked “UNCLAIMED.”

18 On July 31, 2003, the State Bar filed a Statement Re Default and Waiver of Hearing.

19 As the State Bar waived the hearing in this matter, this matter was submitted for decision on  
20 July 31, 2003, following the filing of the State Bar’s Statement Re Default and Waiver of Hearing.<sup>6</sup>

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24 <sup>4</sup>The court grants the State Bar’s request and takes judicial notice of all of Respondent’s  
official membership addresses to the date of the filing of this decision.

25 <sup>5</sup>Respondent’s involuntary inactive enrollment pursuant to Business and Professions Code  
26 section 6007(e) was effective three days after the service of this order by mail.

27 <sup>6</sup>Exhibit 1 attached to the State Bar’s motion for the entry of Respondent’s default, and  
28 Exhibits 1 and 2 attached to the State Bar’s Statement Re Default and Waiver of Hearing, are  
admitted into evidence.

1 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

2 **Jurisdiction**

3 Respondent was admitted to the practice of law in the State of California on December 8,  
4 1995, was a member at all times pertinent to these charges, and is currently a member of the State  
5 Bar of California.

6 **Case No. 02-O-13616**

7 On or about June 13, 2001, the California Supreme Court entered an order (S096555)  
8 (“order”), effective July 13, 2001, suspending Respondent from the practice of law as a result of  
9 discipline ordered in Case Nos. 99-O-12075 and 00-O-12015.

10 On or about April 30, 2002, Respondent’s balance in her client trust account, number 060-  
11 7513330, which she maintains at Wells Fargo Bank (“CTA”), was \$8.37.

12 On or about May 10, 2002, Respondent wrote check number 5036 from her CTA in the  
13 amount of \$8.00, leaving a balance in the CTA of 37¢ on that date.

14 On or about May 13, 2002, Respondent deposited \$700.00 into her CTA, leaving a balance  
15 in the CTA of \$700.37 on that date.

16 On or about May 14, 2002, Respondent deposited \$8.99 into her CTA and wrote check  
17 number 5037 from her CTA in the amount of \$700.00 leaving a balance in the CTA of \$9.36 on that  
18 date.

19 On or about May 31, 2002, after subtracting \$12.00 in service fees from the CTA,  
20 Respondent’s ending balance was -\$2.64.

21 On or about June 3, 2002, Respondent wrote check number 5038 from her CTA payable to  
22 “World Class Systems” in the amount of \$500.00, leaving a balance in the CTA of -\$502.64 on that  
23 date.

24 On or about June 4, 2002, check number 5038 was returned to the bank based upon  
25 insufficient funds in Respondent’s CTA; and on or about June 4, 2002, the bank deducted \$15.00  
26 for the returned check, leaving a balance in the CTA of -\$17.64 on that date.

27 On or about June 12, 2002, Respondent deposited \$400.00 into her CTA, leaving a balance  
28 of \$382.36 on that date.

1 On or about June 17, 2002, Respondent wrote check number 5042 from her CTA payable to  
2 "City of Huntington Beach" in the amount of \$380.00, leaving a balance of \$2.36 on that date.

3 On or about June 28, 2002, Respondent wrote check number 5041 in the amount of \$300.00  
4 from her CTA payable to "World Class Systems;" and on or about June 28, 2002, the bank deducted  
5 \$12.00 in service fees, leaving an ending balance in the CTA of -\$309.64.

6 On or about July 2, 2002, the bank deducted \$18.00 in overdraft fees from the CTA, leaving  
7 a balance of -\$327.54 on that date.

8 On or about July 2, 2002, Respondent wrote check number 5039 in the amount of \$500.00  
9 from her CTA payable to "World Class Systems," leaving a balance of -\$827.54; on or about July  
10 3, 2002, check number 5039 was reversed, crediting the CTA \$500.00, and leaving a balance in the  
11 CTA of -\$348.64 on that date.

12 On or about July 31, 2002, the bank deducted \$12.00 from the CTA, leaving an ending  
13 balance of -\$360.64.

14 From in or about April 2002 through in or about July 2002, Respondent deposited funds into  
15 her CTA and withdrew funds from her CTA while she was actually suspended from the practice of  
16 law and for reasons unrelated to her former clients.

17 Between June 3, 2002 and July 2, 2002, Respondent issued three checks drawn upon the  
18 CTA against insufficient funds which were presented for negotiation as follows:

<u>Check Number:</u>	<u>Date Posted:</u>	<u>Check Amount:</u>	<u>Account Balance:</u>
5038	06/03/02	\$500.00	-\$502.64
5041	06/28/02	\$300.00	-\$297.64
5039	07/02/02	\$500.00	-\$827.54

24 Respondent issued check numbers 5038, 5041 and 5039 when she knew or should have  
25 known that there were insufficient funds in her CTA to pay the checks.

26 On or about July 31, 2002, the State Bar opened an investigation, Case No. 02-O-13616,  
27 pursuant to a report from Wells Fargo Bank that Respondent wrote trust account checks against  
28 insufficient funds in her CTA ("the reportable action").

1 On or about July 31, 2002, State Bar investigator Nelson Santiago ("Santiago") wrote to  
2 Respondent regarding the reportable action. Santiago's letter requested that Respondent respond in  
3 writing to specified allegations of misconduct being investigated by the State Bar in the reportable  
4 action. Santiago's letter was placed in a sealed envelope correctly addressed to Respondent at her  
5 State Bar of California membership address. The letter was properly mailed by first-class mail,  
6 postage prepaid, by depositing for collection by the United States Postal Service in the ordinary  
7 course of business. The United States Postal Service did not return Santiago's letter as undeliverable  
8 or for any other reason.

9 Respondent did not respond to Santiago's letter. Santiago attempted to speak with  
10 Respondent by leaving messages on her telephone answering machine, but Santiago was  
11 unsuccessful in communicating directly with Respondent.

12 On or about August 23, 2002, Santiago again wrote to Respondent regarding the reportable  
13 action. Santiago's letter requested that Respondent respond in writing to specified allegations of  
14 misconduct being investigated by the State Bar in the reportable action. Santiago's letter was placed  
15 in a sealed envelope correctly addressed to Respondent at her State Bar of California membership  
16 address. The letter was properly mailed by first-class mail, postage prepaid, by depositing for  
17 collection by the United States Postal Service in the ordinary course of business. The United States  
18 Postal Service did not return Santiago's letter as undeliverable or for any other reason.

19 Respondent did not respond to Santiago's letter or otherwise communicate with Santiago  
20 between August 23, 2002 and March 10, 2003, when Respondent returned two of Santiago's calls,  
21 leaving messages in his voice mail box.

22 Following on or about March 10, 2003, Santiago attempted to, but was unable to contact  
23 Respondent.

24 **Count One - Rule 4-100(A) of the Rules of Professional Misconduct**<sup>7</sup>

25 The State Bar proved by clear and convincing evidence that Respondent wilfully violated rule  
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27  
28 <sup>7</sup>Unless otherwise indicated, all further references to rules refer to the Rules of  
Professional Conduct of the State Bar of California.

1 4-100(A). Rule 4-100(A) provides that all funds received or held for the benefit of clients must be  
2 deposited in an identifiable bank account which is properly labeled as a client trust account and, with  
3 limited exceptions, no funds belonging to the attorney or law firm can be deposited in said account  
4 or commingled therewith. By depositing and withdrawing funds from her CTA which were  
5 unrelated to her former clients, the court finds that Respondent deposited and withdrew funds  
6 belonging to Respondent from her CTA. As such, the court finds that Respondent commingled  
7 personal funds in her CTA and inappropriately used said account for personal or business banking  
8 in wilful violation of rule 4-100(A). Depositing personal funds in a client trust account constitutes  
9 commingling within the meaning of rule 4-100 even if no client funds are in the account. (*In the*  
10 *Matter of Doran* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871, 876.)

11 **Count Two - Business and Professions Code Section 6106<sup>8</sup>**

12 The State Bar proved by clear and convincing evidence that Respondent wilfully violated  
13 section 6106. Section 6106 provides that the commission of any act involving moral turpitude,  
14 dishonesty or corruption constitutes a cause for suspension or disbarment. By issuing checks drawn  
15 upon the CTA when she knew or should have known that there were insufficient funds in said  
16 account to cover such checks, Respondent committed acts involving moral turpitude, dishonesty or  
17 corruption in wilful violation of section 6106.

18 **Count Three - Section 6068(i)**

19 The State Bar proved by clear and convincing evidence that Respondent wilfully violated  
20 section 6068(i). Section 6068(i) requires an attorney to cooperate with and participate in a State Bar  
21 disciplinary investigation or proceeding. Respondent wilfully violated section 6068(i) by failing to  
22 respond in writing to the specified allegations of misconduct being investigated by the State Bar in  
23 the reportable action as requested by Santiago in his July 31 and August 23, 2002, letters.

24 **Case No. 03-O-01370**

25 On or about February 14, 2001, Respondent entered into a Stipulation as to Facts,  
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27  
28 <sup>8</sup>Unless otherwise indicated, all further references to sections refer to provisions of the  
California Business and Professions Code.

1 Conclusions of Law and Disposition with the State Bar in State Bar Court Case Nos. 99-O-12075  
2 and 00-O-12015 (“the Stipulation”). Respondent signed the Stipulation herself. On or about  
3 February 26, 2001, the State Bar Court approved the Stipulation, and on or about February 27, 2001,  
4 the State Bar Court’s order, as well as the fully executed Stipulation, were properly served upon  
5 Respondent at her membership records address.

6 On or about June 13, 2001, the California Supreme Court entered an order in California  
7 Supreme Court Case No. S096555 (State Bar Court Case Nos. 99-O-12075 and 00-O-12015 (“the  
8 Order”) ordering that Respondent be suspended from the practice of law for a period of three (3)  
9 years, that execution of the suspension be stayed, and that she be placed on probation for a period  
10 of three (3) years subject to the conditions of probation, including actual suspension for one year and  
11 until she makes restitution to Marilyn Aquino (or the Client Security Fund, if appropriate) in the  
12 amount of \$633.00 plus 10% interest per annum from January 26, 1999, and to Fidela Shook (or the  
13 Client Security Fund, if appropriate) in the amount of \$5,890.00 plus 10% interest per annum from  
14 November 23, 1999, and furnish satisfactory proof thereof to the Probation Unit.

15 The Order also required Respondent to comply with the following terms and conditions of  
16 probation, among others:

17 a. to comply with the provisions of the State Bar Act and Rules of Professional  
18 Conduct of the State Bar of California:

19 b. during the period of probation, to report on January 10, April 10, July 10, and  
20 October 10 of each year or part thereof during which the probation is in effect, in writing, to the  
21 Probation Unit, certifying by affidavit or under penalty or perjury that she has complied with all  
22 provisions of the State Bar Act and Rules of Professional Conduct during said period;

23 c. to review the terms and conditions of her probation with her probation monitor,  
24 and to establish a manner and schedule of compliance, and, during the probation period, to furnish  
25 to the monitor such reports as may be requested;

26 d. provide evidence to the Probation Unit of satisfactory completion of State Bar  
27 Ethics School within one year of the effective date of the discipline;

28 e. provide evidence to the Probation Unit of satisfactory completion of the Multistate



1 Professional Responsibility Examination (“MPRE”) during the period of her actual suspension,<sup>9</sup> and,  
2 f. comply with rule 955, California Rules of Court.<sup>10</sup>

3 The Order<sup>11</sup> also required that Respondent, by July 13, 2002, supply the Probation Unit with  
4 satisfactory proof of attendance at a session of the State Bar Ethics School and the State Bar Client  
5 Trust Accounting School and passage of the test given at the end of such sessions.

6 The June 13, 2001, California Supreme Court Order became effective July 13, 2001.

7 On or about October 30, 2001, Probation Deputy Yolanda Acosta (“Acosta”) of the Probation  
8 Unit wrote a letter to Respondent in which she reminded Respondent of the terms and conditions of  
9 her suspension and probation imposed pursuant to the Order. In the October 30, 2001, letter, Acosta  
10 specifically advised Respondent regarding her obligation to file quarterly reports, with the first  
11 having been due on October 10, 2001. Respondent was also warned that failure to timely comply  
12 with the terms and conditions of probation could lead to a new disciplinary proceeding. Enclosed  
13 with the October 30, 2001, letter to Respondent were, among other things, copies of the Order, along  
14 with the Stipulation setting forth the conditions of Respondent’s probation, a Quarterly Report form  
15 and instruction sheet, and a Multistate Professional Responsibility Examination schedule. Also  
16 included in the letter was a telephone number for information regarding the State Bar Ethics School.

17 On or about October 30, 2001, Acosta’s letter was mailed to Respondent via the United  
18 States Postal Service, first-class, postage prepaid, in a sealed envelope addressed to Respondent at  
19

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20  
21 <sup>9</sup>The NDC alleged that Respondent was to provide evidence to the Probation Unit of  
22 satisfactory completion of the MPRE by July 13, 2004. However, a review of the Supreme Court  
23 order reveals that Respondent was ordered to take and pass the MPRE during the period of her  
24 actual suspension.

25 <sup>10</sup>The Court notes that the requirements concerning the Multistate Professional  
26 Responsibility Examination and rule 955 of the California Rules of Court are not probation  
27 conditions but rather are separate requirements imposed by the Supreme Court.

28 <sup>11</sup>The NDC alleged that the Stipulation required Respondent to comply with these  
conditions by July 13, 2002; however, it is the Supreme Court order which ordered Respondent  
to comply with the other conditions of probation recommended by the Hearing Department of the  
State Bar Court in its order approving stipulation filed on February 27, 2001, which required  
Respondent to comply with these requirements by said date. (See Exhibit 2.)

1 her official State Bar membership address. The letter was not returned as undeliverable by the  
2 United States Postal Service or for any other reason.

3 Respondent received the October 30, 2001, letter from Acosta.

4 On or about December 13, 2001, Acosta wrote another letter to Respondent in which she  
5 reminded Respondent of the terms and conditions of her suspension and probation imposed pursuant  
6 to the Order. In the December 13, 2001, letter, Acosta specifically advised Respondent that her  
7 obligation to file an October 10, 2001, quarterly report was overdue. Respondent was also warned  
8 that further failure to timely comply with the terms and conditions of probation would result in the  
9 referral of the matter to the Enforcement Unit for review and determination of further action.

10 On or about December 13, 2001, Acosta's letter was mailed to Respondent via the United  
11 States Postal Service, first-class, postage prepaid, in a sealed envelope addressed to Respondent at  
12 her official State Bar membership address. The letter was not returned as undeliverable by the  
13 United States Postal Service or for any other reason.

14 Respondent received the December 13, 2001, letter from Acosta.

15 Respondent failed to file any of the quarterly reports with the Probation Unit, including the  
16 October 10, 2001, quarterly report. The quarterly reports Respondent failed to file were due on  
17 October 10, 2001, January 10, 2002, April 10, 2002, July 10, 2002, October 10, 2002, January 10,  
18 2003, and April 10, 2003.

19 Respondent did not attend State Bar Ethics School or State Bar Client Trust Accounting  
20 School.

21 **Count One Through Three - Section 6068(k)**

22 The State Bar proved by clear and convincing evidence that Respondent wilfully violated  
23 section 6068(k) in counts one through three. Section 6068(k) provides that it is the duty of an  
24 attorney to comply with all conditions attached to a disciplinary probation. Respondent wilfully  
25 violated section 6068(k) by failing to file quarterly reports due October 10, 2001, January 10, 2002,  
26 April 10, 2002, July 10, 2002, October 10, 2002, January 10, 2003, and April 10, 2003, and by  
27 failing to attend State Bar Ethics School and State Bar Client Trust Accounting School by July 13,  
28 2002.

1 **MITIGATING/AGGRAVATING CIRCUMSTANCES**

2 As Respondent's default was entered in this matter, Respondent failed to introduce any  
3 mitigating evidence on his behalf, and none can be gleaned from the record in this proceeding.

4 In aggravation, Respondent has a prior record of discipline. (Rules Proc. of State Bar, tit. IV,  
5 Stds. for Atty. Sanctions for Prof. Misconduct, standard 1.2(b)(i) ("standard").) On June 13, 2001,  
6 the Supreme Court issued an order in Supreme Court Case No. S096555 (State Bar Court Case No.  
7 99-O-12075; 00-O-12015 (Cons.)) suspending Respondent from the practice of law for three years,  
8 staying execution of said suspension, and placing Respondent on probation for three years on  
9 condition that she be actually suspended for one year and until she made specified restitution and  
10 provided proof thereof to the Probation Unit. Discipline was imposed in this matter based upon  
11 Respondent's failure to return unearned fees and failing to cooperate in a State Bar investigation in  
12 connection with one client matter. In a second client matter, Respondent was found culpable of  
13 wilfully violating rule 4-100(A) and section 6016 as a result of her failure to return funds to her  
14 client and for permitting her client trust account to drop below the amount of funds she should have  
15 had in said account for her client.

16 The fact that Respondent engaged in multiple acts of misconduct in this matter is also an  
17 aggravating circumstance. (Standard 1.2(b)(ii).)

18 Respondent's failure to comply with certain conditions of her probation after receiving two  
19 letters from Probation Deputy Acosta, reminding her of the conditions of her probation, including  
20 her obligation to file the quarterly report due on October 10, 2001, demonstrated indifference toward  
21 rectification of or atonement for the consequences of her misconduct. (Standard 1.2(b)(v).)

22 Respondent's failure to participate in this disciplinary proceeding prior to the entry of her  
23 default is a further aggravating circumstance. (Standard 1.2(b)(vi).)

24 **DISCUSSION**

25 In determining the appropriate discipline to recommend in this matter, the court looks at the  
26 purposes of disciplinary proceedings and sanctions. Standard 1.3 sets forth the purposes of  
27 disciplinary proceedings and sanctions as "the protection of the public, the courts and the legal  
28 profession; the maintenance of high professional standards by attorneys and the preservation of

1 public confidence in the legal profession.”

2 In addition, standard 1.6(b) provides that the specific discipline for the particular violation  
3 found must be balanced with any mitigating or aggravating circumstances, with due regard for the  
4 purposes of imposing disciplinary sanctions.

5 In this case, the standards provide for the imposition of sanctions ranging from suspension  
6 to disbarment. (See Standards 2.2(b), 2.3 and 2.6.) In addition, standard 1.6(a) states, in pertinent  
7 part, “If two or more acts of professional misconduct are found or acknowledged in a single  
8 disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the  
9 sanction imposed shall be the more or most severe of the different applicable sanctions.”

10 Furthermore, standard 1.7(a) provides that if a member is found culpable of misconduct in  
11 any proceeding and the member has a record of one prior imposition of discipline, the degree of  
12 discipline imposed in the current proceeding shall be greater than that imposed in the prior  
13 proceeding unless the prior discipline was remote in time and the offense was minimal in severity.

14 The standards, however, are only guidelines and do not mandate the discipline to be imposed.  
15 (*In the Matter of Moriarty* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 245, 250-251.) “[E]ach  
16 case must be resolved on its own particular facts and not by application of rigid standards.” (*Id.* at  
17 p. 251.)

18 The State Bar recommends that Respondent be disbarred as a result of her misconduct in this  
19 matter. The Court concurs with the State Bar’s discipline recommendation.

20 In this matter, Respondent has been found culpable of serious misconduct similar in nature  
21 to the misconduct found in her prior disciplinary matter. In Case No. 02-O-13616, she commingled  
22 personal funds in her CTA and inappropriately used said account for personal or business banking.  
23 She also wrote checks on insufficient funds, thus engaging in acts involving moral turpitude,  
24 dishonesty or corruption. Respondent also failed to cooperate and participate in the State Bar  
25 investigation of this matter. In Case No. 03-O-01370, Respondent was found culpable of three  
26 counts of wilfully violating section 6068(k) by failing to comply with three separate conditions of  
27 probation imposed upon Respondent in her prior disciplinary matter. Respondent’s misconduct was  
28 surrounded by several aggravating factors, including a prior record of discipline also involving a trust

1 account violation, an act of moral turpitude, dishonesty or corruption and failing to cooperate in a  
2 State Bar investigation, which resulted in a significant period of actual suspension. However, there  
3 were no mitigating factors found by the court.

4 In determining the discipline to recommend in this matter, the court notes that Respondent's  
5 prior record of discipline involved misconduct which began in February 1999, less than four years  
6 after she was admitted to the State Bar. However, even after the Supreme Court order imposing  
7 discipline in this prior matter became effective on July 13, 2001, Respondent began engaging in the  
8 misconduct found in this matter in October 2001 and continued to engage in misconduct until April  
9 10, 2003. Thus, the court finds that Respondent has continued to engage in misconduct from 1999  
10 to April 2003, thus demonstrating that Respondent's prior discipline has had no rehabilitative effect.

11 In addition, the court is concerned about Respondent's failure to comply with probation  
12 conditions to which she had previously stipulated. The court notes that "an attorney probationer's  
13 filing of quarterly probation reports is an important step towards the attorney's rehabilitation." (*In*  
14 *the Matter of Weiner* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 759, 763.) Furthermore, given  
15 that Respondent's prior misconduct involved her trust account, by failing to attend State Bar Ethics  
16 School and Client Trust Accounting School, Respondent failed to comply with probation conditions  
17 significantly related to her prior misconduct. "The violation of a probation condition significantly  
18 related to the attorney's prior misconduct merits the greatest discipline, especially if the violation  
19 raises a serious concern about the need to protect the public or shows the attorney's failure to  
20 undertake steps toward rehabilitation." (*In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State  
21 Bar Ct. Rptr. 138, 151.) The court finds that Respondent's failure to comply with these probation  
22 conditions further demonstrates her lack of rehabilitation.

23 Finally, the court is particularly concerned about Respondent's failure to participate in this  
24 disciplinary proceeding. Respondent's failure to participate in this proceeding leaves the court  
25 without any understanding as to the underlying cause or causes for Respondent's misconduct or from  
26 learning of any mitigating circumstances which would justify this court's departure from the  
27 discipline recommended by the standards.

28 Thus, after considering the nature of Respondent's misconduct, the aggravating

1 circumstances found by the court, and the lack of any mitigating factors, the court finds the discipline  
2 recommended by the State Bar appropriate. Accordingly, the court shall recommend, inter alia, that  
3 Respondent be disbarred from the practice of law and that her name be stricken from the roll of  
4 attorneys in this state.

### 5 RECOMMENDED DISCIPLINE

6 Based on the foregoing, it is hereby recommended that Respondent Consuelo T. Ancog be  
7 disbarred from the practice of law in the State of California and that her name be stricken from the  
8 roll of attorneys in this state.

9 It is further recommended that Respondent be ordered to comply with the requirements of  
10 rule 955 of the California Rules of Court ("CRC 955") within 30 calendar days of the effective date  
11 of the Supreme Court order in this matter, and file the affidavit provided for in paragraph (c) within  
12 40 days of the effective date of the order showing his compliance with said order.<sup>12</sup>

### 13 ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

14 Respondent is ordered transferred to involuntary inactive status pursuant to Business and  
15 Professions Code section 6007(c)(4). Said inactive enrollment will be effective three days after this  
16 order is served by mail, and will terminate upon the effective date of the Supreme Court's order  
17 imposing discipline herein, as provided for by rule 490(b) of the Rules of Procedure of the State Bar  
18 of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

### 19 COSTS

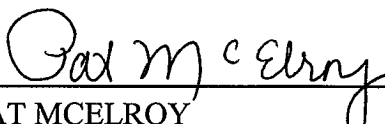
20 It is further recommended that costs be awarded to the State Bar pursuant to Business and  
21 Professions Code section 6086.10, and that such costs be payable in accordance with Business and  
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25 <sup>12</sup>Respondent is required to file a rule 955(c) affidavit even if he has no clients to notify.  
26 (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) Respondent must also file a rule 955(c)  
27 affidavit in this proceeding even if he filed a rule 955(c) affidavit in connection with Supreme  
28 Court matter S096555 (State Bar Court Case No. 99-O-12075; 00-O-12015 (Cons.)). Failure to  
comply with rule 955 is a proper consideration in reinstatement proceedings. (*Hippard v. State  
Bar* (1989) 49 Cal.3d 1084, 1097.)

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Professions Code section 6140.7.

Dated: October 29, 2003

  
PAT MCELROY  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**  
**[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]**

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on October 29, 2003, I deposited a true copy of the following document(s):

**DECISION INCLUDING DISBARMENT RECOMMENDATION AND  
INVOLUNTARY INACTIVE ENROLLMENT ORDER**

in a sealed envelope for collection and mailing on that date as follows:

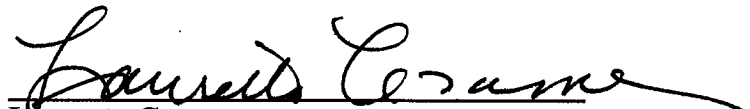
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**CONSUELO T. ANCOG  
20391 MANSARD LN  
HUNTINGTON BEACH CA 92646**

- [X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

**MONIQUE MILLER, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **October 29, 2003**.



**Laretta Cramer**  
Case Administrator  
State Bar Court