

BEFORE THE
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ANCA ELIZABETH BUJES

Licensed Clinical Social Worker License
No. LCS 21501

Respondent.

Case No. LC-2011-523

OAH No. 2011111038

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Behavioral Sciences, State of California, as its Decision in the above-entitled matter.

This Decision shall become effective on June 8, 2012.

IT IS SO ORDERED May 9, 2012



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DEPARTMENT OF CONSUMER AFFAIRS
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Respondent.

PROPOSED DECISION

Administrative Law Judge Mary-Margaret Anderson, Office of Administrative Hearings, State of California, heard this matter on March 29, 2012, in Oakland, California.

Deputy Attorney General Shana A. Bagley represented Complainant Kim Madsen, Executive Officer of the Board of Behavioral Sciences, Department of Consumer Affairs.

John L. Fleer, Attorney at Law, represented Respondent Anca Elizabeth Bujes, who was present.

The record closed on March 29, 2012.

FACTUAL FINDINGS

1. On November 10, 2003, the Board of Behavioral Sciences (Board) issued Licensed Clinical Social Worker License No. LCS 21501 to Anca Elizabeth Bujes (Respondent). The current license expiration date is September 30, 2013.
2. On July 18, 2003, in the San Francisco County Superior Court, Respondent was convicted by her plea of no contest of a misdemeanor violation of Vehicle Code section 23152, subdivision (b), driving with a blood alcohol level of 0.08 percent or above. Respondent was placed on probation for three years pursuant to terms and conditions that included serving two days in county jail, completing a three-month first offender program, and paying fines and fees.
3. The 2003 conviction followed Respondent's arrest on May 5, 2003. The

police report concerning this incident is not in the record. Respondent testified that she was at a birthday party, where she was drinking alcohol over a period of hours, and made the bad decision to drive. She was pulled over for speeding. Respondent described this incident as a “big wake-up call.” Afterwards, she would make arrangements to have someone else drive, take a cab, or just not drink.

4. On January 14, 2011, in the Alameda County Superior Court, Respondent was convicted by her plea of no contest of a misdemeanor violation of Vehicle Code section 23152, subdivision (b), driving with a blood alcohol level of 0.08 percent or above, with a prior conviction for the same offense. Respondent was placed on probation for 36 months pursuant to terms and conditions that included serving 10 days in county jail, completing an 18-month drinking driver program, and paying fines and fees.

5. The 2011 conviction followed Respondent’s arrest on September 18, 2010, at approximately 1:00 a.m. The police report states that a highway patrol officer observed Respondent to make an illegal u-turn, and that he therefore executed a traffic stop. The officer detected an odor of alcohol and observed Respondent’s eyes to be red and watery. When he asked her how much alcohol she had consumed, she replied “nothing.” Respondent did not pass a field sobriety test. Her blood alcohol level was subsequently found to be 0.16 percent.

6. Respondent explained this second arrest and conviction as “a very stupid mistake.” She went out with a friend without making a plan for getting home, and made the bad decision not to take a cab. She denied drinking when the officer asked, because she was frightened and had been advised once “a long time ago” not to admit to having even one drink. She acknowledged that this was not good advice.

7. The day following the arrest was a Sunday. Nevertheless, Respondent called her supervisor to inform her about the arrest, because she felt it created an emergency situation. Respondent drives in connection with her job, and knew that the arrest would have serious consequences for her employment and licensure.

8. In 1997, Respondent became a child welfare worker for the City and County of San Francisco’s Human Services Department. In that position, she monitors foster children in their foster homes, and reports to the juvenile court about their progress. Respondent works with birth parents, foster parents, and the many service providers who assist the children. Respondent is confronted with “issues like truancy, violence, child abuse, sexual abuse, severe neglect, and death,” on a daily basis. She obtained a masters degree in social work and public health in 1994. She was a counselor at Planned Parenthood, and also worked as a case manager for a foster family agency, before beginning her present position.

9. Following the 2010 arrest, Respondent recognized that she needed help. She was concerned that she “could make such a stupid mistake after such a long period,” and

concluded that something must be very wrong. Within one week of the arrest, Respondent sought a therapist, and was given the name of Molly Sullivan, Ph.D., a clinical psychologist in private practice. She contacted Dr. Sullivan on September 24, 2010, and they met for the first time on September 28, 2010.

10. Dr. Sullivan has worked with many people who are in recovery from substance abuse, and who are not yet in recovery, but are still able to function at a very high level. These individuals may be in denial about having a substance abuse problem, and it may take some time to work through their denial. Dr. Sullivan testified at hearing. Her initial impression was that Respondent was experiencing extreme anxiety, but she was nonetheless able to express herself in a straightforward and clear manner. In contrast with patients Dr. Sullivan sees who attempt to minimize what has occurred, Respondent was direct and gave an honest portrayal about what happened. "She was devastated," and did not portray herself as a victim, or trivialize the arrest in any other way. To date, they have met for 62 sessions.

One goal of Dr. Sullivan's was to determine whether Respondent, particularly given two DUI incidents, had an alcohol dependency problem. She determined and opined at hearing that Respondent does not have such a problem. Dr. Sullivan related that Respondent was abstinent from alcohol entirely for nearly the whole time they have worked together. She believes Respondent's self-reports in this regard, in part based upon her experience with patients who have been trying to stop drinking. Respondent does not talk about needing alcohol in the manner of those with a continuing problem.

11. Asked how Respondent could have allowed herself to drink and drive a second time, Dr. Sullivan discussed the enormous stress from work Respondent was experiencing at the time. A client Respondent had been working with, who was pregnant, had been shot 13 times in a drive-by shooting, and was paralyzed. Another client was killed around Christmas. She was not fully cognizant of how these events were affecting her. Respondent had compartmentalized her work to such an extent that her support system was insufficient, and she was unable to properly cope. She was also "passionately connected to her job and in fear of losing it." Nonetheless, at Dr. Sullivan's suggestion, Respondent took a leave from work for one year, both to address any psychological issues, and in recognition of the time she would be needing to spend attending classes and otherwise meeting the probation conditions.

12. Dr. Sullivan also opined "it is unimaginable to me that [Respondent] would drink and drive again." Respondent has taken the time in therapy to talk about and work through ways to handle job stress. This is her principal problem; she does not have a problem with alcohol use. Accordingly, Respondent is not in need of alcohol counseling or activities such as Alcoholics Anonymous.

13. Respondent describes the therapy with Dr. Sullivan as helping her see that she

is not “super social worker;” rather, that she is fallible just as others are. Respondent describes herself as previously having an over-confident attitude that caused her to keep things that bothered her, or that made her sad, bottled up inside. She now believes that it is acceptable to seek help, and is no longer embarrassed or worried about talking about her feelings. In addition, there are resources at work, such as psychological consultants, that she can utilize. Respondent no longer feels that she has to show herself to be an “infallible super social worker.”

14. Respondent decided to stop drinking completely for a period of time, as part of the self-examination process that she undertook. She learned that “it was pretty easy and that I didn’t have cravings.” Respondent’s probation conditions did not include mandatory AA attendance, but she went to meetings on her own initiative. She learned from listening to the stories of other attendees. She also attended to support a family member, and understands how the meetings are helpful for people who need that type of support.

15. Respondent is now back at work, and she drives with the mandatory interlock device installed on her vehicle. She will have one or two drinks with friends on social occasions. She feels she has very good control and will never again drink and drive. In fact, Respondent has come to believe that “no amount of alcohol and driving is ever going to be safe.” She asserts that a zero tolerance law, similar to what some other countries have instituted, would be better “so that people won’t try to fool themselves by thinking they can drink at all and drive.”

16. Respondent is current with her criminal probation conditions. She has paid the fines and has four more months of monthly meetings to attend. She has completed all of the classes. Respondent picked up trash on the highway to satisfy one requirement. In addition, she volunteered at Children’s Hospital, including completing a training program there for volunteers.

17. Respondent was a convincing witness on her own behalf. Her expressions of remorse appeared heartfelt. Respondent described herself as “mortified” to be in the position she finds herself, and explained that for her, it is very “black and white” that it is not safe to drink and drive, and the consequences are too great for her to “go through this again.”

18. Sophie Isom, MSW, signed a declaration in support of Respondent. Isom is a Program Director for the Human Services Agency, City and County of San Francisco. Isom wrote that she has known Respondent since 1997 and that she “is a valued and highly respected professional.” Isom has never seen behaviors suggestive of the use of drugs or alcohol, and describes Respondent as “reliable, respectful and hard-working.”

19. Sharon L. Bell signed a declaration in support of Respondent. Bell is a Program Manager for the Human Services Agency, City and County of San Francisco, and has worked there for 21 years. Bell supervised Respondent while she was completing the

hours of work necessary for licensure. She has never seen her “behaving inappropriately or erratically in any setting” or “appear to be under the influence of drugs or alcohol.” Bell describes Respondent as “a caring and highly competent professional.”

20. The evidence established that the Board incurred costs totaling \$4,732.50 in connection with the investigation and prosecution of this matter. The case of *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, sets forth the factors to be considered in determining the reasonableness of costs. Those factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee’s subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate to the alleged misconduct. None of these factors significantly militate in Respondent’s favor. The amount of \$4,732.50 is found to be reasonable.

LEGAL CONCLUSIONS

1. Business and Professions Code section 4992.3 authorizes the Board to suspend or revoke the license of a licensed clinical social worker for unprofessional conduct. Pursuant to section 4992.3, subdivision (a), unprofessional conduct includes “conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter.” In addition, Business and Professions Code section 490 provides that a licensing “board may suspend or revoke a professional license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.”

2. California Code of Regulations, title 16, section 1812, provides that a crime will be considered substantially related to licensees regulated by the Board “if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by his or her license in a manner consistent with the public health, safety or welfare.” It is well settled that convictions for driving under the influence of alcohol are substantially related to the health care professions. (*Griffiths v. Superior Court* (2003) 96 Cal.App.4th 757.) And in this case, there is a direct relationship, in that Respondent drives a car in the scope of her position as a child welfare worker.

3. Cause for license discipline exists pursuant to Business and Professions Code section 4992.3, subdivision (a), unprofessional conduct/substantially related criminal conviction, and Business and Professions Code section 490, by reason of the matters set forth in Finding 4; that is, a DUI conviction with one prior DUI conviction.

4. Pursuant to Business and Professions Code section 4992.3, subdivision (c), unprofessional conduct also includes using “alcoholic beverages to the extent, or in a

manner, as to be dangerous or injurious” to the licensee and/or the public. Cause for license discipline exists pursuant to Business and Professions Code section 4992.3, subdivision (c), unprofessional conduct/dangerous use of alcohol, by reason of the matters set forth in Findings 4 and 5.

5. As cause for discipline has been established, it remains to be determined the appropriate form such discipline should take. The Board’s guidelines provide that the minimal penalty for a conviction is a probationary period of three to five years with numerous terms and conditions. In an alcohol-related matter, the conditions can reasonably include testing, completion of programs, and AA attendance.

It is recognized that Respondent’s criminal record now contains two DUI convictions. The second conviction is the legal basis for this action, but it incorporates the first as a “prior,” and the first conviction can also be considered in aggravation. Appropriately, the criminal consequences have escalated, and Respondent has attended classes and meetings designed to prevent re-offense. Significantly, in addition to this, Respondent has in essence designed and implemented her own program, taking herself off work for one year and attending AA meetings, therapy sessions, and engaging in an extended period of self-examination. Respondent credibly testified that she does not have a problem with alcohol dependence, and her testimony was corroborated by a psychologist she has worked with extensively. It is concluded that placing Respondent’s license on probation is unnecessary.

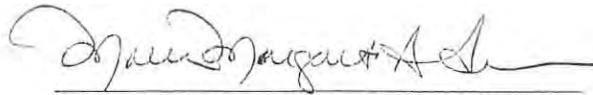
6. The Board’s over-arching function in this matter is public protection. At this point in time, the potential for public harm by Respondent’s practice as a licensed clinical social worker appears negligible. Business and Professions Code section 495 provides “any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licensee or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate.” Considering all of the facts and circumstances surrounding the cause for license discipline and Respondent’s actions subsequent to her arrest, it is concluded that a public reproof will be sufficient to protect the public interest.

7. Business and Professions Code section 125.3 provides that a licensee may be ordered to pay the Board “a sum not to exceed the reasonable costs of the investigation and enforcement of the case.” The costs of investigation and enforcement were established to total \$4,732.50, and the amount was found to be reasonable. Respondent shall be required to reimburse the Board in that amount.

ORDER

1. Licensed Clinical Social Worker License No. LCS 21501, issued to Anca Elizabeth Bujes, is publically reprovded.
2. Respondent shall pay the Board's costs of investigation and enforcement in the amount of \$4,732.50. This amount shall be paid to the Board within 60 days of the effective date of this decision.

DATED: April 12, 2012



MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings

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8 **BEFORE THE**
9 **BOARD OF BEHAVIORAL SCIENCES**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:
13 **ANCA ELIZABETH BUJES**
5254 Boyd Avenue
14 **Oakland, CA 94618**
15 **Licensed Clinical Social Worker License**
No. LCS 21501
16 Respondent.

Case No. LC-2011-523

A C C U S A T I O N

18 Complainant alleges:

19 **PARTIES**

- 20 1. Kim Madsen (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the Board of Behavioral Sciences, Department of Consumer Affairs.
22 2. On or about November 10, 2003, the Board of Behavioral Sciences issued Licensed
23 Clinical Social Worker License Number LCS 21501 to Anca Elizabeth Bujes (Respondent). The
24 Licensed Clinical Social Worker License was in full force and effect at all times relevant to the
25 charges brought in this Accusation and will expire on September 30, 2011, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board of Behavioral Sciences (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

5 4. Code section 118, subdivision (b), provides that the suspension, expiration, surrender,
6 or cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to
7 proceed with a disciplinary action during the period within which the license may be renewed,
8 restored, reissued or reinstated.

9 5. Code section 4996.11 states that:

10 The board may suspend or revoke the license of any person who is guilty on the
11 grounds set forth in Section 4992.3. The proceedings for the suspension or
12 revocation of licenses under this article shall be conducted in accordance with
13 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
14 Government Code, and the board shall have all the powers granted in that chapter.

14 STATUTORY PROVISIONS

15 6. Code section 490 provides, in pertinent part, that a board may suspend or revoke a
16 license on the ground that the licensee has been convicted of a crime substantially related to the
17 qualifications, functions, or duties of the business or profession for which the license was issued.

18 7. Section 4992.3 of the Code states, in pertinent part:

19 The board may deny a license or a registration, or may suspend or revoke the
20 license or registration of a licensee or registrant if he or she has been guilty of
21 unprofessional conduct. Unprofessional conduct includes, but is not limited to, the
22 following:

23 (a) The conviction of a crime substantially related to the qualifications,
24 functions, or duties of a licensee or registrant under this chapter. The record of
25 conviction shall be conclusive evidence only of the fact that the conviction occurred.
26 The board may inquire into the circumstances surrounding the commission of the
27 crime in order to fix the degree of discipline or to determine if the conviction is
28 substantially related to the qualifications, functions, or duties of a licensee or
registrant under this chapter. A plea or verdict of guilty or a conviction following a
plea of nolo contendere made to a charge substantially related to the qualifications,
functions, or duties of a licensee or registrant under this chapter is a conviction within
the meaning of this section. The board may order any license or registration
suspended or revoked, or may decline to issue a license or registration when the time

1 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or,
2 when an order granting probation is made suspending the imposition of sentence,
3 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing
4 the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside
5 the verdict of guilty, or dismissing the accusation, information, or indictment.

6 . . .

7 (c) Administering to himself or herself any controlled substance or using any of
8 the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent,
9 or in a manner, as to be dangerous or injurious to the person applying for a
10 registration or license or holding a registration or license under this chapter, or to any
11 other person, or to the public, or, to the extent that the use impairs the ability of the
12 person applying for or holding a registration or license to conduct with safety to the
13 public the practice authorized by the registration or license. The board shall deny an
14 application for a registration or license or revoke the license or registration of any
15 person who uses or offers to use drugs in the course of performing clinical social
16 work. . . .

17 COST RECOVERY

18 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 **FIRST CAUSE FOR DISCIPLINE** 23 **(Substantially Related Conviction)** 24 **(Bus. & Prof. Code §§ 490 and 4992.3(a))**

25 9. Respondent has subjected her license to disciplinary action under Code sections 490
26 and 4992.3, subdivision (a), in that she was convicted of a crime substantially related to the
27 qualifications, functions, or duties of a licensed clinical social worker. The circumstances are set
28 forth as follows:

A. On or about January 14, 2011, in a criminal proceeding entitled *People v. Anca Elizabeth Bujes* in Alameda Superior Court, Case Number 565455, Respondent was convicted by a plea of no contest for violating Vehicle Code section 23152, subdivision (b), (Driving While Having a Blood Alcohol Level of .08% or Higher), a misdemeanor. In addition to the violation of Vehicle Code section 23152, subdivision (b), Respondent admitted to a prior conviction of violating Vehicle Code section 23152, subdivision (b), on or about July 18, 2003. Respondent was ordered to serve 10 days in county jail, serve 36 months of informal criminal probation, pay

1 fines, complete an 18-month drinking driver program and to comply with other terms and
2 conditions. The record of the criminal proceeding is incorporated as if fully set forth

3 B. The factual circumstances of the 2011 conviction are that on or about September 18,
4 2010, Respondent was arrested by the California Highway Patrol for driving under the influence
5 of alcohol. Respondent told the officer that she had not been drinking, however, her measure
6 blood alcohol level was .16 percent. She had alcohol on her breath, red and watery eyes, and was
7 unable to perform the Field Sobriety Tests as instructed by the arresting officer.

8 **SECOND CAUSE FOR DISCIPLINE**
9 **(Bus. & Prof. Code § 4992.3(c))**
10 **(Unprofessional Conduct: Dangerous Use of Alcohol)**

11 10. Respondent has subjected her license to disciplinary action under Code section
12 4992.3, subdivision (c), in that she engaged in unprofessional conduct when she used alcoholic
13 beverages to the extent, or in a manner, as to be dangerous or injurious to herself and others, as
14 more particularly set forth in Paragraph 9 and its subparts A and B, above.

15 **AGGRAVATION OF PENALTY**

16 11. Complainant alleges, by way of aggravation of any penalty to be imposed in this
17 matter, that on or about July 18, 2003, in the criminal matter entitled *People v. Anca Elizabeth*
18 *Bujes* in San Francisco County Superior Court, Respondent was convicted on or about for
19 violating Vehicle Code section 23152, subdivision (b), (Driving While Having a Blood Alcohol
20 Level of .08% or Higher), a misdemeanor. Respondent received a sentence of probation. The
21 record of this criminal proceeding is incorporated as if fully set forth.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
24 Accusation, and that following the hearing, the Board of Behavioral Sciences issue a decision:

25 1. Revoking or suspending Licensed Clinical Social Worker License Number LCS
26 21501, issued to Anca Elizabeth Bujes;

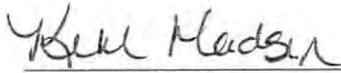
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- 2. Ordering Anca Elizabeth Bujes to pay the Board of Behavioral Sciences the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 3. Taking such other and further action as deemed necessary and proper.

DATED: June 13, 2011


KIM MADSEN
Executive Officer
Board of Behavioral Sciences
Department of Consumer Affairs
State of California
Complainant

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