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

In the Matter of the Accusation Against:

Case No. 2002014001095

**MICHAEL VERNON VILLALOBOS
3592 Elker Road
Corona, CA 92882-6602**

DEFAULT DECISION AND ORDER

**Marriage and Family Therapist Intern
Registration No. IMF 72982**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about March 18, 2015, Complainant Kim Madsen, in her official capacity as the Executive Officer of the Board of Behavioral Sciences, Department of Consumer Affairs, filed Accusation No. 2002014001095 against Michael Vernon Villalobos (Respondent) before the Board of Behavioral Sciences. (Accusation attached as Exhibit A.)

2. On or about October 8, 2012, the Board of Behavioral Sciences (Board) issued Marriage and Family Therapist Intern Registration No. IMF 72982 to Respondent. The Marriage and Family Therapist Intern Registration was in full force and effect at all times relevant to the

1 charges brought in Accusation No. 2002014001095 and will expire on October 31, 2015, unless
2 renewed.

3 3. On or about April 2, 2015, Respondent was served by Certified and First Class Mail
4 copies of the Accusation No. 2002014001095, Statement to Respondent, Notice of Defense,
5 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
6 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
7 Code section 136, is required to be reported and maintained with the Board. Respondent's
8 address of record was and is 3592 Elker Road Corona, CA 92882-6602.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts
15 of the accusation not expressly admitted. Failure to file a notice of defense shall
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
17 may nevertheless grant a hearing.

18 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
20 2002014001095.

21 7. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions
24 or upon other evidence and affidavits may be used as evidence without any notice to
25 respondent.

26 8. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 2002014001095,

1 finds that the charges and allegations in Accusation No. 2002014001095, are separately and
2 severally, found to be true and correct by clear and convincing evidence.

3 9. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$990.00 as of May 5, 2015.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Michael Vernon Villalobos has
8 subjected his Marriage and Family Therapist Intern Registration No. IMF 72982 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Behavioral Sciences is authorized to revoke Respondent's Marriage and
11 Family Therapist Intern Registration based upon the following violations alleged in the
12 Accusation which are supported by the evidence contained in the Default Decision Evidence
13 Packet in this case.:

14 a. Respondent subjected his registration to discipline under Code sections 490 and
15 4982, subdivision (a) in that he was convicted of crimes that are substantially related to the
16 qualifications, duties, and functions of a marriage and family therapist intern. Specifically,
17 Respondent was convicted on his plea of guilty of violating Vehicle Code (VC) section 23152,
18 subdivisions (a), driving under the influence of alcohol (DUI), and (b), driving with a blood
19 alcohol concentration (BAC) of 0.08 percent or more, misdemeanors. Respondent admitted and
20 the court found true the allegation that at the time of the commission of the offenses, his BAC
21 was .15 percent or more, a sentencing enhancement pursuant to VC section 23578.

22 b. Respondent subjected his registration to discipline under Code section 4982,
23 subdivision (c) for unprofessional conduct in that on April 21, 2014, Respondent drove a motor
24 vehicle while impaired with a blood alcohol concentration almost twice the legal limit.

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ORDER

IT IS SO ORDERED that Marriage and Family Therapist Intern Registration No. IMF 72982, heretofore issued to Respondent Michael Vernon Villalobos, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 15, 2015.

It is so ORDERED June 15, 2015


FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

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Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(MICHAEL VERNON VILLALOBOS)

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Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. 2002014001095

13 **MICHAEL VERNON VILLALOBOS**
14 **3592 Elker Road**
Corona, CA 92882-6602

A C C U S A T I O N

15 **Marriage and Family Therapist Intern**
16 **Registration No. IMF 72982**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Kim Madsen (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Behavioral Sciences, Department of Consumer Affairs.

23 2. On October 8, 2012, the Board of Behavioral Sciences issued Marriage and
24 Family Therapist Intern Registration Number IMF 72982 to Michael Vernon Villalobos
25 (Respondent). Respondent has also been known as Michael V. Kyles. The Marriage and Family
26 Therapist Intern Registration was in full force and effect at all times relevant to the charges
27 brought herein and will expire on October 31, 2015, unless renewed.

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JURISDICTION

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

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

5. Section 4982 states, in pertinent part:

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

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is 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 shall be deemed to be 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 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

....

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is

1 licensed as a physician and surgeon, who uses or offers to use drugs in the course
2 of performing marriage and family therapy services.

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4 6. Section 4984.01 states:

5 (a) The marriage and family therapist intern registration shall expire one
6 year from the last day of the month in which it was issued.

7 (b) To renew the registration, the registrant shall, on or before the
8 expiration date of the registration, complete all of the following actions:

9 (1) Apply for renewal on a form prescribed by the board.

10 (2) Pay a renewal fee prescribed by the board.

11 (3) Notify the board whether he or she has been convicted, as
12 defined in Section 490, of a misdemeanor or felony, and whether any disciplinary
13 action has been taken against him or her by a regulatory or licensing board in this
14 or any other state subsequent to the last renewal of the registration.

15 (c) The registration may be renewed a maximum of five times. No
16 registration shall be renewed or reinstated beyond six years from the last day of
17 the month during which it was issued, regardless of whether it has been revoked.
18 When no further renewals are possible, an applicant may apply for and obtain a
19 new intern registration if the applicant meets the educational requirements for
20 registration in effect at the time of the application for a new intern registration. An
21 applicant who is issued a subsequent intern registration pursuant to this
22 subdivision may be employed or volunteer in any allowable work setting except
23 private practice.

24 (d) This section shall remain in effect only until January 1, 2016, and as of
25 that date is repealed, unless a later enacted statute, that is enacted before January
26 1, 2016, deletes or extends that date.

27 STATUTORY PROVISIONS

28 7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to
evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation
furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
revoke a license on the ground that the licensee has been convicted of a crime substantially

1 related to the qualifications, functions, or duties of the business or profession for which the
2 license was issued.

3 9. Section 493 of the Code states:

4 Notwithstanding any other provision of law, in a proceeding conducted by
5 a board within the department pursuant to law to deny an application for a license
6 or to suspend or revoke a license or otherwise take disciplinary action against a
7 person who holds a license, upon the ground that the applicant or the licensee has
8 been convicted of a crime substantially related to the qualifications, functions, and
9 duties of the licensee in question, the record of conviction of the crime shall be
10 conclusive evidence of the fact that the conviction occurred, but only of that fact,
11 and the board may inquire into the circumstances surrounding the commission of
12 the crime in order to fix the degree of discipline or to determine if the conviction
13 is substantially related to the qualifications, functions, and duties of the licensee in
14 question.

15 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
16 and 'registration.'

17 REGULATORY PROVISIONS

18 10. Title 16 of the California Code of Regulations, section 1812, defines
19 "substantially related" as follows:

20 For purposes of denial, suspension, or revocation of a license or
21 registration pursuant to Division 1.5 (commencing with Section 475) of the Code,
22 a crime or act shall be considered to be substantially related to the qualifications,
23 functions or duties of a person holding a license under Chapter 17 of Division 3
24 and Chapter 4 of Part 3 of Division 7 of the Code if to a substantial degree it
25 evidences present or potential unfitness of a person holding a license to perform
26 the functions authorized by his or her license in a manner consistent with the
27 public health, safety or welfare.

28 11. Title 16 of the California Code of Regulations, section 1814 provides:

(a) When considering the suspension or revocation of a license, the board,
in evaluating the rehabilitation of such person and his or her eligibility for a
license will consider the following criteria:

(1) Nature and severity of the act(s) or crime(s) under consideration as
grounds for suspension or revocation.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
under consideration as grounds for suspension or revocation under Section 490 of
the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s)
giving rise to the suspension or revocation.

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1 (4) Whether the licensee has complied with any terms of probation, parole,
2 restitution or any other sanctions lawfully imposed against such person.

3 (5) If applicable, evidence of expungement proceedings pursuant to
4 Section 1203.4 of the Penal Code.

5 (6) Evidence, if any, concerning the degree to which a false statement
6 relative to application for licensure may have been unintentional, inadvertent or
7 immaterial.

8 (7) Efforts made by the applicant either to correct a false statement once
9 made on an application or to conceal the truth concerning facts required to be
10 disclosed.

11 (8) Evidence, if any, of rehabilitation submitted by the licensee.

12 COST RECOVERY

13 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request
14 the administrative law judge to direct a licentiate found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
17 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
18 may be included in a stipulated settlement.

19 FIRST CAUSE FOR DISCIPLINE

20 (July 22, 2014 Criminal Conviction for Driving Under the Influence on April 21, 2014)

21 13. Respondent subjected his registration to discipline under Code sections 490 and
22 4982, subdivision (a) in that he was convicted of crimes that are substantially related to the
23 qualifications, duties, and functions of a marriage and family therapist intern. The circumstances
24 are as follows:

25 a. On July 22, 2014, in a criminal proceeding entitled *The People of the State*
26 *of California v. Michael Vernon Villalobos, aka Michael V Kyles*, in Riverside County Superior
27 Court, Riverside Hall of Justice, Criminal Division case number RIM1409177, Respondent was
28 convicted on his plea of guilty of violating Vehicle Code (VC) section 23152, subdivisions (a),
driving under the influence of alcohol (DUI), and (b), driving with a blood alcohol concentration
(BAC) of 0.08 percent or more, misdemeanors. Respondent admitted and the court found true the

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1 allegation that at the time of the commission of the offenses, his BAC was .15 percent or more, a
2 sentencing enhancement pursuant to VC section 23578.

3 b. As a result of the conviction, on July 22, 2014, Respondent was sentenced
4 to be committed to the custody of the Riverside County Sheriff for ten days, with credit for two
5 days actually served, and the balance of eight days to be served in the work release program.
6 Respondent was granted 36 months summary probation subject to standard alcohol conditions.
7 Respondent was ordered to attend and complete a three-month first-offender drinking driver
8 program. Respondent was also ordered to pay fines, fees, penalty assessments, and restitution.

9 c. The facts that led to the conviction are that on April 21, 2014,
10 Respondent's vehicle was found stopped in the number two southbound lane on interstate I-15,
11 north of 68th Street in Riverside, California. Officers from the California Highway Patrol (CHP)
12 noticed Respondent's stopped vehicle and approached the driver side. Respondent was found
13 asleep with the vehicle in drive and Respondent's foot on the brake. The CHP officers knocked
14 on Respondent's window and he woke up. Respondent moved his vehicle to the shoulder and an
15 approaching CHP officer immediately noticed a strong odor of alcohol emitting from inside
16 Respondent's car. Respondent's eyes were red and watery and his speech slow and slurred. As
17 Respondent exited his vehicle, he had difficulty maintaining his balance. Respondent was
18 transported in a patrol car to a safer location. While in the patrol car, the CHP officer could smell
19 alcohol emitting from Respondent. During the initial interview, Respondent admitted to drinking
20 Mike's Hard Lemonade. Respondent took a series of field sobriety tests and failed to perform as
21 explained and demonstrated. Respondent provided breath samples for a preliminary alcohol
22 screening test, which indicated a BAC of .108 percent and .122 percent. Respondent was
23 transported to the Riverside County Jail where he provided two breath samples, which upon
24 testing indicated a BAC of .16 percent and .15 percent.

25 SECOND CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct – Dangerous Use of Alcohol)

27 14. Respondent has subjected his registration to disciplinary action under Code section
28 4982, subdivision (c) for unprofessional conduct in that on April 21, 2014, as described in

1 paragraph 13, above, Respondent drove a motor vehicle while impaired with a blood alcohol
2 concentration almost twice the legal limit. Such conduct was dangerous and potentially injurious
3 to himself and to the public.

4 **PRAYER**

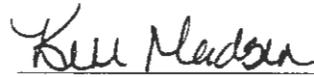
5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged, and that following the hearing, the Board of Behavioral Sciences issue a decision:

7 1. Revoking or suspending Marriage and Family Therapist Intern Registration
8 Number IMF 72982, issued to Michael Vernon Villalobos;

9 2. Ordering Michael Vernon Villalobos to pay the Board of Behavioral Sciences the
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 125.3; and

12 3. Taking such other and further action as deemed necessary and proper.

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16 DATED: March 18, 2015



17 KIM MADSEN
18 Executive Officer
19 Board of Behavioral Sciences
20 Department of Consumer Affairs
21 State of California
22 *Complainant*

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