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

In the Matter of the Accusation Against:
STEVEN FREDERICK MITCHELL
6 Palladium Lane
Ladera Ranch, CA 92694-1200

Associate Clinical Social Worker
Registration No. ASW 29551

Respondent.

Case No. AS-2014-325
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 11, 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. AS-2014-325 against Steven Frederick Mitchell (Respondent) before the Board of Behavioral Sciences. (A copy of the Accusation is attached as Exhibit A.)

2. On or about November 9, 2010, the Board of Behavioral Sciences (Board) issued Associate Clinical Social Worker Registration No. ASW 29551 to Respondent. The Associate Clinical Social Worker Registration expired on November 30, 2014, and has not been renewed.

3. Section 118(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

1 reinstated. Section 4996.6 of the Code provides, in pertinent part, that a license may be renewed,
2 restored, reinstated or reissued within three years of its expiration date.

3 4. On or about March 17, 2015, Respondent was served by Certified and First Class
4 Mail copies of the Accusation No. AS-2014-325, 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:

9 6 Palladium Lane
10 Ladera Ranch, CA 92694-1200

11 5. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 6. In a telephone conversation with the California Department of Justice on or about
15 March 26, 2015, Respondent stated that he received the Accusation package, and that he would
16 not be filing a Notice of Defense to the Accusation. Respondent was advised of the consequences
17 for failing to file a Notice of Defense, up to and including the revocation of his registration.

18 7. Government Code section 11506 states, in pertinent part:

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

22 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
23 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
24 AS-2014-325.

25 9. California Government Code section 11520 states, in pertinent part:

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

1 Orange County Superior Court, case number 14HM03943, Respondent was convicted on his plea
2 of guilty of violating Vehicle Code section 23152(a), driving under the influence of
3 alcohol/drugs, and Vehicle Code section 23152(b), driving with a blood alcohol content of .08
4 percent or more, misdemeanors, crimes that are substantially related to the qualifications,
5 functions, and duties of an Associate Clinical Social Worker.

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ORDER

IT IS SO ORDERED that Associate Clinical Social Worker Registration No. ASW 2955I, heretofore issued to Respondent Steven Frederick Mitchell, 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

DOJ Matter ID:SD2014708409

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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3 State Bar No. 164015
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Attorneys for Complainant

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. AS-2014-325

13 **STEVEN FREDERICK MITCHELL**
6 Palladium Lane
14 Ladera Ranch, CA 92694-1200

A C C U S A T I O N

15 **Associate Clinical Social Worker**
Registration No. ASW 29551

16 Respondent.
17

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19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about November 9, 2010, the Board of Behavioral Sciences issued Associate
24 Clinical Social Worker Registration Number ASW 29551 to Steven Frederick Mitchell
25 (Respondent). The Associate Clinical Social Worker Registration expired on November 30, 2014,
26 and has not been renewed.

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1 discipline or to determine if the conviction is substantially related to the qualifications,
2 functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 4992.3 of the Code states:

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

10 (a) The conviction of a crime substantially related to the qualifications, functions, or
11 duties of a licensee or registrant under this chapter. The record of conviction shall be
12 conclusive evidence only of the fact that the conviction occurred. The board may inquire
13 into the circumstances surrounding the commission of the crime in order to fix the degree
14 of discipline or to determine if the conviction is substantially related to the qualifications,
15 functions, or duties of a licensee or registrant under this chapter. A plea or verdict of
16 guilty or a conviction following a plea of nolo contendere made to a charge substantially
17 related to the qualifications, functions, or duties of a licensee or registrant under this
18 chapter is a conviction within the meaning of this section. The board may order any
19 license or registration suspended or revoked, or may decline to issue a license or
20 registration when the time for appeal has elapsed, or the judgment of conviction has been
21 affirmed on appeal, or, when an order granting probation is made suspending the
22 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the
23 Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty,
24 or setting aside the verdict of guilty, or dismissing the accusation, information, or
25 indictment.

26

27 (c) Administering to himself or herself any controlled substance or using any of the
28 dangerous drugs specified in Section 4022 or 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 who uses or
offers to use drugs in the course of performing clinical social work. This provision does
not apply to any person also licensed as a physician and surgeon under Chapter 5
(commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to
a patient under his or her care.

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30 REGULATORY PROVISIONS

31 10. California Code of Regulations, title 16, section 1812 states:

32 For purposes of denial, suspension, or revocation of a license or registration
33 pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act shall
34 be considered to be substantially related to the qualifications, functions or duties

1 of a person holding a license under Chapter 17 of Division 3 and Chapter 4 of Part 3
2 of Division 7 of the Code if to a substantial degree it evidences present or potential
3 unfitness of a person holding a license to perform the functions authorized by his or
4 her license in a manner consistent with the public health, safety or welfare.

5 11. California Code of Regulations, title 16, section 1814 states:

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

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

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

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

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

17 (5) If applicable, evidence of expungement proceedings pursuant to Section
18 1203.4 of the Penal Code.

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

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

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

24

25 **COST RECOVERY**

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

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1 FIRST CAUSE FOR DISCIPLINE

2 (January 8, 2014 Criminal Conviction for DUI on August 24, 2013)

3 13. Respondent has subjected his registration to disciplinary action under sections 490 and
4 4992.3(a) of the Code in that he was convicted of a crime that is substantially related to the
5 qualifications, functions, and duties of an Associate Clinical Social Worker. The circumstances are
6 as follows:

7 a. On January 8, 2014, in a criminal proceeding entitled *People of the State of*
8 *California v. Steve Frederick Mitchell, aka Steven Frederick Mitchell*, in Orange County Superior
9 Court, case number 13HM08651, Respondent was convicted on his plea of guilty of violating
10 Vehicle Code section 23152(b), driving with a blood alcohol content of .08 percent or more, a
11 misdemeanor. Pursuant to a plea agreement, the court dismissed an additional count of violating
12 Vehicle Code section 23152(a), driving under the influence of alcohol/drugs. The court found that
13 Respondent's BAC was .18 percent.

14 b. As a result of the conviction, Respondent was granted informal probation for
15 three years, and ordered to complete a three-month Level 1 First Offender Alcohol Program and
16 MADD Victim Impact Panel session, pay fees and fines, and comply with DUI probation terms.

17 c. The facts that led to the conviction were that on or about the evening of August
18 24, 2013, Orange County Sheriff's deputies responded to a call of a vehicle parked in the right
19 turn lane of an intersection, blocking traffic while its occupants were involved in an altercation.
20 Upon arrival, the deputies made contact with Respondent, who was the driver, and a female
21 passenger, who both admitted they had been arguing. The deputies observed a moderate odor of
22 alcohol on Respondent's breath, and his eyes were bloodshot and watery. Respondent admitted to
23 consuming alcohol. Prior to submitting to field sobriety tests, Respondent told the deputy he was
24 not sick or injured, and he had no physical defects. While attempting to conduct field sobriety
25 tests, Respondent stated he was unable because he was having severe back spasms and was in
26 pain. Respondent provided two breath samples which were analyzed by the preliminary alcohol
27 screening device with a BAC of .168 percent. Respondent was arrested for driving under the
28 influence. During booking, a blood sample was taken.

1 provided two breath samples which were analyzed by the preliminary alcohol screening device with
2 a BAC of .157 and .161, respectively. Respondent was arrested for driving under the influence.
3 During booking, a blood sample was taken.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Dangerous Use of Alcohol)**

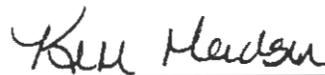
6 15. Respondent has subjected his registration to disciplinary action under section
7 4992.3(c) of the Code for unprofessional conduct in that on August 24, 2013 and March 22, 2014,
8 as described in paragraphs 13 and 14, above, Respondent drove a motor vehicle while significantly
9 impaired by alcohol, conduct which was dangerous and potentially injurious to himself, to others,
10 and the public.

11 **PRAYER**

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

- 14 1. Revoking or suspending Associate Clinical Social Worker Registration Number ASW
15 29551, issued to Steven Frederick Mitchell;
- 16 2. Ordering Steven Frederick Mitchell to pay the Board of Behavioral Sciences the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.
- 20
21

22 DATED: March 11, 2015



23 KIM MADSEN
24 Executive Officer
25 Board of Behavioral Sciences
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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