

1 **BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS**
2 **FOR THE STATE OF ARIZONA**

3 In the Matter of:

Case No. 20-47

4
5 **AUSTIN ASHELY McCALL, Psy.D.**

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND CONSENT
AGREEMENT FOR SURRENDER OF
PSYCHOLOGIST LICENSE**

6 Holder of License No. PSY-005199
7 For the Practice of Psychology,
8 In the State of Arizona,
 (Currently Summarily Suspended)

9 Respondent.

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12 In the interest of a prompt and judicious settlement of the above-captioned matter before
13 the Arizona Board of Psychologist Examiners ("Board") and consistent with public interest,
14 statutory requirements and responsibilities of the Board and pursuant to A.R.S. § 32-2061 *et seq.*,
15 and A.R.S. § 41-1092.07(F)(5), Austin Ashley McCall, Psy.D. ("Respondent"), holder of License
16 No. PSY-005199 (currently summarily suspended) and the Board enter into this Consent
17 Agreement for Voluntary Surrender of Psychologist License ("Consent Agreement") as the final
18 disposition of this matter.

19 **JURISDICTION**

20 1. The Board is authorized to regulate the practice of psychology in Arizona pursuant
21 to A.R.S. § 32-2061, *et seq.*, and the rules promulgated thereunder, found in Arizona
22 Administrative Code ("A.A.C." or "rules") at R4-26-101, *et seq.*, to regulate and control the
23 licensing of psychologists in the State of Arizona.

24 2. Respondent is the holder of license number PSY-005199 for the practice of
25 psychology in the State of Arizona. The license was summarily suspended on October 13, 2022.

26 3. The Board has personal and subject matter jurisdiction over Respondent pursuant
27 to A.R.S. § 32-2061, *et seq.*, and the rules of A.A.C. R4-26-101, *et seq.*
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1 or officer or political subdivision of the state relating to this matter or other matters concerning
2 Respondent.

3 8. This Consent Agreement shall be subject to the approval by the Board and shall be
4 effective only when approved by the Board and signed by the Board's Executive Director. In the
5 event that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no
6 evidentiary value and shall not be relied upon nor introduced in any action by any party, except the
7 parties agree that should the Board reject this Consent Agreement and this case proceeds to hearing,
8 Respondent shall assert no claim that the Board was prejudiced by its review and discussion of this
9 document or any records relating thereto.
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11 9. The Consent Agreement, once approved by the Board and signed by the Respondent
12 and the Executive Director, shall constitute a public record, which may be disseminated as a formal
13 action of the Board and shall be reported to the National Practitioner Data Bank.

14 10. Although Respondent does not agree that all the Findings of Fact set forth in this
15 Consent Agreement are supported by the evidence, Respondent acknowledges that it is the
16 Board's position that, if this matter proceeded to formal hearing, the Board could establish
17 sufficient evidence to support a conclusion that certain of Respondent's conduct constituted
18 unprofessional conduct.
19

20 11. Respondent voluntarily enters into this Consent Agreement for the purpose of
21 avoiding the expense, uncertainty, and prolonged time involved in further administrative
22 proceedings. The issues contained herein are resolved by settlement and not actually litigated.
23 Any allegations and findings herein may not be used for *res judicata* or collateral estoppel effect
24 in any subsequent civil proceedings for any claims of professional liability or negligence by or on
25 behalf of any complainant(s).
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1 **FINDINGS OF FACT**

2 1. Respondent is the holder of license no. PSY-005199 for the practice of psychology
3 in the State of Arizona. That license was summarily suspended on or about October 13, 2022.

4 2. Pursuant to a September 23, 2020, Consent Agreement and Order for Probation and
5 Monitoring, Respondent's license to practice psychology was on probation for a period of five
6 years.

7 3. The original Consent Agreement has been amended periodically since September
8 2020, but Respondent was required to be monitored monthly with Monica Faria, M.D. (addiction
9 psychiatrist), to undergo a minimum of 3 random urine drug screens ("UDS") per month¹, to
10 participate in therapy sessions, and attend weekly 12-step meetings.
11

12 4. Additionally, the Consent Agreement provided that after two years of probation,
13 Respondent may seek early termination of probation and the return of her license to an active,
14 unrestricted status. However, prior to being released from probation, the Consent Agreement
15 required Respondent to undergo a fitness for duty and substance use evaluation.

16 5. To that end, Respondent engaged with Eric Lott, M.D., FASAM, Professional
17 Medical Monitoring Program of Arizona/Community Bridges, to conduct the evaluations
18 necessary to support her request to terminate her probation.

19 6. As part of his evaluation process, Dr. Lott required Respondent to undergo
20 substance testing that included nail testing.² The sample was collected on September 28, 2022, and
21 the results were reported on October 6, 2022.
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23 7. The results are positive for cocaine, metabolites of cocaine (benzoylecgonine), and
24 metabolites of cocaine and alcohol used together.

25 8. According to Dr. Lott, the test results indicate "that there has been more recent
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27 ¹ The Consent Agreement further provided that the frequency and type of testing may be varied if the circumstances
warrant.

28 ² Dr. Lott did not complete the evaluations because of the positive test results.

1 cocaine use with alcohol within the past 3 months and possibly a few weeks longer than 3
2 months." He also noted that "it would be highly unlikely that cocaine would test positive in nails
3 more than one year out" (Respondent had asserted that she had not used cocaine in more than one
4 year.)

5 9. Additionally, upon learning of the positive test results Dr. Faria opined that her
6 "interpretation of this (the positive test results) is that Respondent likely relapsed onto cocaine and
7 alcohol sometime in the past 3 months, give or take a couple of weeks."

8 10. In addition, on September 15, 2022, Respondent underwent a random urine drug
9 screen pursuant to the terms of the Consent Agreement. The results of that drug screen were
10 positive for Marijuana Metabolite.

11 11. Pursuant to the terms of the current Board orders to which Respondent is subject,
12 "a positive drug screen result for alcohol, any illegal substance including marijuana or a substance
13 for which Respondent does not have a current and valid prescription is a violation of this order and
14 may result in the summary suspension, suspension or revocation of Respondent's license."

15 12. Pursuant to A.R.S. §32-2061(16)(aa), unprofessional conduct is defined as
16 violating formal board order, consent agreement, term of probation or stipulated agreement.

17 13. On October 12, 2022, the Board held a special virtual public meeting to discuss the
18 allegations against Respondent and to determine whether the evidence in its possession constituted
19 a threat to the public's health, safety and welfare and therefore, should result in the summary
20 suspension of Respondent's license. After considering all of the documentary evidence and
21 testimony, the Board voted to summarily suspend Respondent's license to practice psychology.
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24 CONCLUSIONS OF LAW

25 The conduct set forth in the above Findings of Fact constitutes unprofessional
26 conduct as defined by A.R.S. §32-2061(16)(aa), violating formal board order, consent agreement,
27 term of probation or stipulated agreement.
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5. The parties agree that this Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any waiver, expressed or implied, of the Board's statutory authority or jurisdiction regarding any other pending or future investigation, action or proceeding. Respondent also understands that acceptance of the Consent Agreement does not preclude any other agency, subdivision or officer of this state from instituting other civil or criminal proceedings with respect to the conduct that is subject of this Consent Agreement. The parties agree that this Consent Agreement is a final adjudication of Complaint No. 20-47.

6. Respondent understands that the foregoing Consent Agreement shall not become effective unless and until adopted by the Board and executed on behalf of the Board. Any modification to this original document is ineffective and void unless mutually approved by both parties in writing.

7. Respondent understands that this Consent Agreement is a public record and may be publicly disseminated as a formal action of the Board and shall be reported to the National Practitioner Data Bank.

DATED this 9 day of December, 2022.

Arizona Board of
Psychologist Examiners

Austin Ashley McCall
Respondent

Heidi Herbst Paakkonen
Heidi Herbst Paakkonen
Executive Director

ORIGINAL filed electronically
This 9 day of **December**, 2022 with:

Arizona State Board of Psychologist Examiners
1740 W. Adams St., Suite 3403
Phoenix, Arizona 85007

1 **COPY** of the foregoing mailed by Certified Mail No. 70212720000061790493
2 And electronic mail this 9 day of December, 2022 to:

3 Austin Ashley McCall
4 Address on Record
5 Respondent

6 **COPY** of the foregoing mailed by regular USPS and
7 electronic mail this 9 day of December, 2022 to:

8 Tammy Thibodeau, Esq.
9 Lancaster Law
10 One West Elliot Road
11 Ste. 114
12 Tempe, AZ 85284
13 Attorney for Respondent

14 **COPY** of the foregoing via email ()
15 This 9 day of December, 2022 to:

16 Jeanne M. Galvin
17 Assistant Attorney General
18 2005 North Central Ave. SGD/LES
19 Phoenix, Arizona 85004
20 Jeanne.galvin@azag.gov
21 Attorney for the State of Arizona

22 By: Jennifer Michaelson
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