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STATE OF ALASKA

ALASKA POLICE STANDARDS COUNCIL

In the Matter of )  
 )  
 Michael A McFadden ) ACCEPTANCE & ORDER  
 ) APSC No. 2018-38  
 ) OAH No. 19-0147-POC  
 Respondent, )  
 \_\_\_\_\_ )

Pursuant to AS 18.65.220(6) and 13 AAC 85.110 the Alaska Police Standards Council of the State of Alaska (Council) may, and in some cases shall, revoke the certification of a police officer in Alaska if the officer no longer meets the requirements set forth by the council for certification.

On December 4, 2018, the Council met and considered the matter of former North Slope Borough Police Officer Michael A. McFadden, "Respondent," following an administrative investigation by the Executive Director and his staff. The council deliberated and unanimously found probable cause to pursue the revocation of Respondent's police certification.

On or about February 8, 2019, Respondent was formally notified and served with a formal accusation detailing Respondent's specific misconduct and the authority under which the Council pursued action. The accusation is incorporated herein as part of this Acceptance and Order. Respondent requested an impartial hearing before the Alaska Office of Administrative Hearings (OAH) and the matter was referred to that agency and a hearing set.

On April 22, 2019, following preparatory legal filings by APSC with the OAH, Respondent notified the agency by e-mail and on record during a preliminary hearing, that he wished to dismiss his hearing request and surrender his police certification. Administrative Law Judge Jessica Leah subsequently granted McFadden his motion and the case was dismissed and referred to the Council for acceptance of Respondent's voluntary surrender of his Alaska police certification.

WHEREAS, the Police Standards Council has found probable cause to revoke the police certification of Respondent; and

WHEREAS, having been notified of his rights to appeal the council's action pursuant to the procedures governed by the Administrative Procedure Act in AS 44.62.330, et. seq., the Respondent voluntarily dismissed his appeal of the Council's revocation action; and

WHEREAS, the Respondent stated, on record with the Office of Administrative Hearings, that he wished to voluntarily surrender his Alaska police certification;

ALASKA POLICE STANDARDS COUNCIL  
Finding of Disqualification – Michael A McFadden  
APSC No. 2018-38

NOW, THEREFORE, this formal Acceptance and Order for the surrender of the Respondent's Police Certification is entered into the Respondent's record, subject to the provisions for 13 AAC 85.110(d).

Dated this 22<sup>nd</sup> day of April 2019, at Juneau, Alaska



Robert E. Griffiths, Executive Director  
Alaska Police Standards Council

Accepted and Adopted by the Alaska Police Standards Council, this 12<sup>th</sup> day of June 2019, at Juneau, Alaska



Chief Justin Doll, Council Chair  
Alaska Police Standards Council

State of Alaska  
Alaska Police Standards Council  
Box 111200  
Juneau, Alaska 99811-1200

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STATE OF ALASKA

ALASKA POLICE STANDARDS COUNCIL

In the Matter of, )  
)  
Michael Anthony McFadden, ) No. APSC 2018-38  
)  
Respondent )  
\_\_\_\_\_ )

**ACCUSATION**

Bob Griffiths (Griffiths), Executive Director of the Alaska Police Standards Council (APSC), State of Alaska, is seeking to revoke the police certificate of Respondent Michael Anthony McFadden under the legal authority of AS 18.65.240(a) and (c), the Council’s regulations in 13 AAC 85.110, and under the procedures governed by the Administrative Procedure Act in AS 44.62.330, *et. seq.* Griffiths alleges as follows:

1. On or about July 27, 2006, the Respondent was hired by the North Slope Borough Police Department (NSBPD) as a police officer.
2. On or about August 1, 2007, the Respondent was certified by APSC as a police officer in the State of Alaska.
3. On or about August 22, 2008, Respondent resigned from the NSBPD
4. On or about December 1, 2009, Respondent was hired by the Dillingham Department of Public Safety as a police officer. He resigned his position on May 16, 2011.
5. On or about September 17, 2014, Respondent was re-hired by the NSBPD as a police officer.

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2           6.       On or about February 2, 2018, Respondent was arrested for the  
3 misdemeanor crime of Driving While under the Influence by the Washington State  
4 Patrol. As a result, Respondent’s Washington State Driver’s License was suspended.  
5 Respondent’s primary residence is in Washington. He did not report his arrest or his  
6 driver’s license suspension to the NSBPD, as required, and continued to work. His  
7 duties involved driving motor vehicles.  
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11           7.       On or about September 14, 2018, Respondent reported his arrest to  
12 supervisors of the NSBPD, several days after supervisors began an internal  
13 investigation into reports that one of their officers had been arrested and their driver’s  
14 license suspended. Respondent subsequently resigned his position on October 17,  
15 2018, after the internal investigation into his conduct resulted in a recommendation  
16 that he be dismissed.  
17

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19           8.       As required by 13 AAC 85.090(b), NSBPD reported Respondent’s  
20 resignation, and its reasons, on October 30, 2018. APSC began an investigation and  
21 determined from police reports, court filings, and public records that Respondent had  
22 other unreported arrests he repeatedly omitted on sworn documents filed with APSC  
23 and relied upon by agencies conducting necessary background investigations. These  
24 incidents include, but may not be limited to:  
25

26  
27           A.       Respondent was arrested in King County Washington, for the  
28 misdemeanor crime of Driving with License Suspended Third Degree<sup>1</sup> on  
29 March 11, 2000; the charge was subsequently dismissed.  
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<sup>1</sup> Washington Statute RCW 46.20.342(C) Court Case C00288075WSPCTKIN

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B. On November 24, 2000, Respondent was arrested in Kent Washington for Driving with License Suspended Third Degree and the misdemeanor crime of Negligent Driving. In Washington, Negligent Driving is committed when an individual, “... *operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or marijuana or any drug or exhibits the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects.* ...<sup>2</sup>” Respondent pleaded guilty to the lesser charge of Driving Without a License on March 6, 2001, and to the original charge of Negligent Driving on September 12, 2001.

C. On September 11, 2001, following an investigation by Kent Washington Police Department into the arson fire destruction of Respondent’s car, the department arrested him for the felony crimes of Second Degree Arson, Insurance Fraud and Filing a False Claim<sup>3</sup>. He was also charged with a warrant for failure to comply with conditions imposed in his Negligent Driving case. Respondent was lodged in jail and released sometime after September 14, 2001, on \$10,000.00 bail. Kent investigators found that Respondent solicited two accomplices to burn up his car, so he could file an insurance claim and collect the insurance. Although Respondent’s two accomplices were

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<sup>2</sup> Washington Statute RCW 46.61.5249, Court Case K00030185KNPCTKNT, Kent PD Case #00-13038

<sup>3</sup> Washington Statutes RCW 9A.48.030, RCW 48.30.220, and RCW 48.30.230, respectively. Court Case # Y1AU00223, Kent PD Case #01-9775

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2 prosecuted and accepted responsibility after admitting their involvement,  
3 Respondent's case was dropped by the District Attorney.

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5 D. On May 4, 2002, Respondent was arrested in Snohomish  
6 County, Washington for Driving with License Suspended Third Degree. He  
7 was convicted of the same charge on May 16, 2002<sup>4</sup>.

8  
9 E. On November 6, 2007, while employed as a police officer with the  
10 NSBPD, Respondent was charged by his own department with the offense of  
11 Exceeding Alcohol Importation Limits with any Calendar Month<sup>5</sup>. He pleaded  
12 guilty and paid the associated fine and court surcharge fees.

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15 9. Over the course of his Alaska law enforcement career, Respondent  
16 prepared, swore, signed, and filed official APSC forms in support of his hiring and  
17 certification. These include: Personal History Statements (F-3 forms) dated March 9,  
18 2006; June 23; 2009; August 5, 2011; and August 5, 2014; and Applications for  
19 Certification (F-7 forms) signed and sworn by the Respondent on July 14, 2007 and  
20 November 18, 2015. Examination of these show that all contain material  
21 misrepresentations, significant omissions, and/or false statements. These include, but  
22 are not limited to:  
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28 A. Respondent omitted all arrests and convictions listed in  
29 paragraph eight from his F-3 dated March 9, 2006, other than the statement  
30 "11/2000 [arrested for] FTA for traffic court," and that he was, "Convicted of  
31 Driving while Suspended." He also did not answer the question about arrests  
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<sup>4</sup> Court Case # C00432686WSPCTSNO

<sup>5</sup> Borough Code BCO08.15.060(A): Court Case # 2BA-08-00064MO, NSBPD Case # 107001067

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2 or disciplinary action while in the military. He listed his type of discharge as  
3 “*Honorable.*” In fact; his discharge was less than honorable, a ‘general’  
4 discharge from service on July 3, 2001, due to misconduct with drugs; as  
5 documented in Respondent’s Certificate of Release or Discharge from Active  
6 Duty (DD-214)<sup>6</sup>. The required copy of his DD-214 was not filed with APSC  
7 until September 2, 2014.  
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11 B. In support of his application for initial certification as a police  
12 officer, on or about July 14, 2007 Respondent signed his F-7 form certifying  
13 that he had never been “*discharged, asked to resign, or involuntarily*  
14 *terminated from employment,*” and that he was only, “*Arrested 11/2000 for a*  
15 *Bench Warrant issued for FTA for Traffic Court. I was deployed overseas on*  
16 *the court date. Kent Police Department.*” Respondent omitted information  
17 regarding all arrests and/or convictions listed in paragraphs 8 (A) through 8  
18 (D) and lied about the fact that he was involuntarily discharged by the Coast  
19 Guard.  
20

21  
22 C. On or about June 23, 2009 Respondent signed an F-3 form in  
23 support of his application as a police officer with Dillingham Police  
24 Department. In this form he characterized his military discharge as,  
25 “*Honorable/Gen,*” and checked the ‘yes’ checkbox for to the question; “*While*  
26 *in the military, were you ever arrested for an offense which resulted in a trial*  
27 *by deck court or by summary, special or general court-martial, Article 15,*  
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<sup>6</sup> US Coast Guard COMDTINST M1000.6A (18 Jun 07) 12.B.18.b.4 “*a. Involvement with Drugs. Any member involved in a drug incident or the illegal, wrongful, or improper sale, transfer, manufacture, or introduction onto a military installation of any drug, as defined in Article 20.A.2.k., will be processed for separation from the Coast Guard with no higher than a general discharge.*”

1  
2           *captain’s mast or an equivalent proceeding?”* His form did not, however,  
3 provide the required explanation for his ‘yes’ answer. Respondent reported he  
4 was arrested by Kent PD, Kent, WA; that he was convicted, in Kent, of  
5 Negligent Driving in 2001; and, that he was cited for “*DWLS-Snohomish*  
6 *County-5/2003.*” Respondent did not provide the required explanation of his  
7 arrest(s) in Kent WA, nor did he disclose the arrests listed in paragraph 8(A),  
8 8(C) and 8(E).  
9

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12           D.       On or about August 5, 2011, Respondent prepared and signed  
13 an F-3 form in support of an unsuccessful application for re-employment as an  
14 officer with NSBPD. As with the form prepared in 2009, he characterized his  
15 military discharge as, “*Honorable/Gen,*” and again checked the ‘yes’  
16 checkbox for to the same question about military discipline without providing  
17 the required explanation. In this instance he again listed “*11/2000 – Kent*  
18 *Police Dept- Negligent Driving...*” as his only arrest or criminal charge. He  
19 did not disclose the arrests listed in paragraph 8(A) and 8(C) through 8(E).  
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24           E.       Respondent again applied for a position with NSBPD,  
25 submitting an F-3 form dated August 5, 2014. For the first time he disclosed  
26 his military discipline; “*5/2001- Captains Mast- Positive UA for THC,*  
27 *Administrative Discharge – Honorable.*” He again characterized his type of  
28 discharge as, “*Honorable;*” unfortunately, it was not. Respondent listed only  
29 a “*Driving While License Suspended*” conviction from “*10/2000,*” as his only  
30 arrest or conviction. He did not disclose the arrests or convictions listed in  
31 paragraph 8(A) through 8(E).  
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F. On or about November 18, 2015, Respondent applied to APSC for his intermediate level police certification and submitted his sworn signed F-7 form. On this form Respondent checked ‘yes’ to whether he had been arrested before and to whether he had been involuntarily terminated previously. His only explanation for these yes answers was, “*Arrested DWLSR- 11/1999-Kent, Wa.*” He did not provide the required information regarding his prior termination, nor did he list any of the conduct listed in paragraph 8(A) through 8(E).

11. In Griffiths’ experience, applicants who consistently omit material facts such as prior arrests, previous police contacts, civil suites, former spouses, and/or disciplinary actions, from documents required during hiring or certification, do so to cast themselves in a more favorable light and to dishonestly present themselves as an individual with integrity and, in some cases, experience and qualifications they do not possess. Consistent, significant, material omissions and misrepresentations clearly establish the applicant’s intent to deceive the hiring department into hiring an otherwise unqualified or unfit candidate.

11. Respondent’s pattern of conduct in consistently omitting, minimizing or obfuscating material facts from his sworn, signed documents relied upon by his prospective agencies to determine his fitness for police officer positions, and by APSC for certification, clearly demonstrates he is dishonest and lacks good moral character. His failure to report his arrest and the suspension of his driving privileges in February 2018 to the NSBPD is further evidence of this fact.

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2 12. Respondent's arrest for driving under the influence in 2018, his  
3 multiple arrests and/or citations for driving with a suspended license, and his 2001  
4 solicitation of two accomplices to burn up his car so he could file a false insurance  
5 claim, clearly demonstrate he is dishonest and has a lack of respect for the laws of this  
6 state, other states, and the United States, which means he lacks good moral character.  
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9 13. Respondent's demonstrated dishonesty adversely affects his ability to  
10 be a police officer in Alaska. A police officer must be able to believably testify in  
11 support of search warrants and before a judge and jury in trial courts. Officers with a  
12 demonstrated history of dishonesty lack credibility and can no longer believably  
13 testify, nor can their co-workers rely upon information they provide in carrying out  
14 their mission. The Respondent is no longer fit to be a police officer in Alaska.  
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16  
17 . 14. AS 18.65.240(c) provides that the APSC may deny or revoke the  
18 certificate of a police officer who does not meet the standards adopted under (a) (2) of  
19 this section. Those standards are established in 13 AAC 85.010.  
20

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22 15. 13 AAC 85.110(a)(1) provides that the council may revoke a basic,  
23 intermediate, or advanced certificate upon a finding that the holder of the certificate  
24 falsified, or omitted information required to be provided on an application for  
25 certification at any level, or in supporting documents;  
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28 16. 13 AAC 85.110(a)(2) provides that the council may revoke a basic,  
29 intermediate, or advanced certificate upon a finding that the holder of the certificate  
30 has been discharged from employment as a police officer in this state for cause for  
31 inefficiency, incompetence, or some other reason that adversely affects the ability and  
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2 fitness of the police officer to perform job duties or that is detrimental to the reputation,  
3 integrity, or discipline of the police department where the police officer worked.

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5 17. 13 AAC 85.110(a)(3) provides that the council may revoke a basic,  
6 intermediate, or advanced certificate upon a finding that the holder of the certificate  
7 does not meet the standards in 13 AAC 85.010(a) or (b). This includes the requirement  
8 that the person be of good moral character.  
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11 18. 13 AAC 85.110(b)(3) provides that the council will revoke a basic,  
12 intermediate, or advanced certificate upon a finding that the holder of the certificate  
13 has been discharged from employment as police officer in this state for cause for  
14 conduct that would cause a reasonable person to have substantial doubt about an  
15 individual's honesty, fairness, and respect for the rights of others and for the laws of  
16 this states and the United State or that is detrimental to the integrity of the police  
17 department where the police officer worked.  
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22 **COUNT I**

23 Paragraphs 1-18 are incorporated by reference. Based upon the facts described  
24 above, Respondent falsified, and omitted information required to be provided on an  
25 application for certification and in supporting documents, which is grounds for  
26 discretionary revocation of his police certification under 13 AAC 85.110(a)(1).  
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29 **COUNT II**

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31 Paragraphs 1-18 are incorporated by reference. Based upon the facts described  
32 above, Respondent resigned while under threat of discharged from employment as a  
police officer in this state for cause for inefficiency, incompetence, or some other  
reason that adversely affects the ability and fitness of the police officer to perform job

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2 duties or that is detrimental to the reputation, integrity, or discipline of the North Slope  
3 Borough Police Department, which is grounds for discretionary revocation under 13  
4 AAC 85.110(a)(2).  
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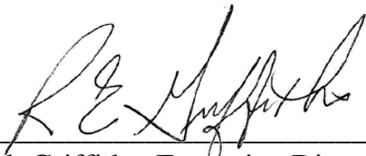
6 **COUNT III**

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8 Paragraphs 1-18 are incorporated by reference. Based upon the facts  
9 described above, Respondent does not meet the minimum standards for a certified  
10 police officer established under 13 AAC 85.010(a)(3). Respondent lacks good moral  
11 character because he is dishonest and lacks respect for the rights of others and for the  
12 law, which is grounds for discretionary revocation under 13 AAC 85.110(a)(3).  
13  
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15 **COUNT IV**

16  
17 Paragraphs 1-18 are incorporated by reference. Based upon the facts  
18 described above, Respondent has been discharged from employment as police officer  
19 in this state for cause for conduct that would cause a reasonable person to have  
20 substantial doubt about an individual's honesty, fairness, and respect for the rights of  
21 others and for the laws of this states and the United State or that is detrimental to the  
22 integrity of the North Slope Borough Police Department, which is grounds for  
23 mandatory revocation under 13 AAC 85.110(b)(3).  
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29 DATED this 4th day of January 2019 at Juneau, Alaska.  
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\_\_\_\_\_  
Bob Griffiths, Executive Director  
Alaska Police Standards Council