BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **Eugene Ralph Dorio, M.D.** **Physician's & Surgeon's Certificate No. A 41829** **Respondent.**	**Case No. 800-2018-047251**

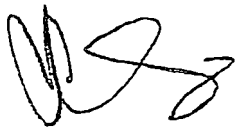
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 30, 2022.

IT IS SO ORDERED: August 31, 2022.

MEDICAL BOARD OF CALIFORNIA



Laurie Rose Lubiano, J.D., Chair
Panel A

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General
CLAUDIA MOREHEAD
Deputy Attorney General
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California Department of Justice
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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: EUGENE RALPH DORIO, M.D. 23823 Valencia Boulevard, Suite 230 Valencia, California 91355 Physician's and Surgeon's Certificate A 41829, Respondent.	Case No. 800-2018-047251 OAH No. 2021080337 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Claudia Morehead, Deputy Attorney General.

2. Respondent Eugene Ralph Dorio, M.D. (Respondent) is represented in this proceeding by attorney Peter R. Osinoff of Bonne Bridges Mueller O'Keefe & Nichols, 355 South Grand Avenue, Suite 1750 Los Angeles, California, 90071-1562.

3. On or about June 26, 1985, the Board issued Physician's and Surgeon's Certificate No. A 41829 to Respondent. That certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2018-047251, and will expire on July 31, 2022, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2018-047251 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on March 4, 2022. Respondent timely filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 800-2018-047251 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2018-047251. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in First Amended Accusation No. 800-2018-047251, if proven at a hearing, constitute cause for imposing discipline

upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations in First Amended Accusation No. 800-2018-047251, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate No. A 41829 to disciplinary action. Respondent hereby gives up his right to contest the charges and allegations in First Amended Accusation No. 800-2018-047251.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. A 41829 issued to Respondent Eugene Ralph Dorio, M.D., shall be and is hereby publicly reprimanded pursuant to Business and Professions Code section 2227, subdivision (a)(4). This public reprimand, which is issued in connection with Respondent's unauthorized retention and disclosure of confidential documents as set forth in First Amended Accusation No. 800-2018-047251, is as follows:

"You retained confidential documents belonging to a hospital and failed to appropriately dispose of them. In or around June of 2017, you disclosed the documents without authorization and without taking steps to protect individuals' privacy rights and the confidentiality of the documents' contents. Your actions constitute unprofessional conduct in violation of Business and Professions Code section 2234, as more fully described in First Amended Accusation No. 800-2018-047251."

IT IS FURTHER ORDERED that Respondent shall comply with the following terms:

1. **PROFESSIONALISM PROGRAM (ETHICS COURSE)**. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of

this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

2. **INVESTIGATION/ENFORCEMENT COST RECOVERY**. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement in the amount of $1,500 (one thousand five hundred dollars), payable within 90 calendar days of the effective date of this Decision. Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of this Decision.

The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility to repay investigation and enforcement costs.

3. A violation of this order in any respect shall constitute unprofessional conduct within the meaning of Business and Professions Code section 2234.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter R. Osinoff. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 3/22/2022

EUGENE RALPH DORIO, M.D.
Respondent

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I have read and fully discussed with Respondent Eugene Ralph Dorio, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/22/2022

PETER R. OSINOFF
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: 3/23/2022

Respectfully submitted,

ROB BONTA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General

Claudia Morehead

CLAUDIA MOREHEAD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 800-2018-047251

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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: EUGENE RALPH DORIO, M.D. 23823 Valencia Boulevard, Suite 230 Valencia, California 91355 Physician's and Surgeon's Certificate No. A 41829, Respondent.	Case No. 800-2018-047251 OAH No. 2021080337 **FIRST AMENDED ACCUSATION**

PARTIES

1. William Prasifka ("Complainant") brings this First Amended Accusation solely in his official capacity as the Executive Director of the Medical Board of California ("Board").

2. On June 26, 1985, the Board issued Physician's and Surgeon's Certificate Number A 41829 to Eugene Ralph Dorio, M.D. ("Respondent"). That Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2022, unless renewed.

JURISDICTION

3. This First Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless

otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

STATUTORY PROVISIONS

5. Section 2234 of the Code states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
>
> (b) Gross negligence.
>
> (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.
>
> (1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.
>
> (2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.
>
> (d) Incompetence.
>
> (e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.
>
> (f) Any action or conduct that would have warranted the denial of a certificate.
>
> (g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

6. Section 805, subdivision (a)(1)(B), of the Code states:

> (B) 'Peer review body' includes:
> (i) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or

of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(ii) A health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(iii) Any medical, psychological, marriage and family therapy, social work, professional clinical counselor, dental, midwifery, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(iv) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

7. Unprofessional conduct under Business and Professions Code section 2234 is conduct that breaches the rules or ethical conduct of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575, 578.)

8. Civil Code section 56.10, subdivision (a), states:

(a) A provider of health care, health care service plan, or contractor shall not disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

9. Evidence Code section 1157, subdivision (a), states:

(a) Neither the proceedings nor the records of organized committees of medical, medical-dental, podiatric, registered dietitian, psychological, marriage and family therapist, licensed clinical social worker, professional clinical counselor, pharmacist, or veterinary staffs in hospitals, or of a peer review body, as defined in Section 805 of the Business and Professions Code, having the responsibility of evaluation and improvement of the quality of care rendered in the hospital, or for that peer review body, or medical or dental review or dental hygienist review or chiropractic review or podiatric review or registered dietitian review or pharmacist review or veterinary review or acupuncturist review or licensed midwife review committees of local medical, dental, dental hygienist, podiatric, dietetic, pharmacist, veterinary, acupuncture, or chiropractic societies, marriage and family therapist, licensed clinical social worker, professional clinical counselor, or psychological review committees of state or local marriage and family therapist, state or local licensed clinical social worker, state or local licensed professional clinical counselor, or state or local psychological associations or societies or licensed midwife associations or societies having the responsibility of evaluation and improvement of the quality of care, shall be subject to discovery.

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1360, states:

For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act.

11. Code of Federal Regulations, title 45, part 164.508(a)(1), states:

(a) Standard: Authorizations for uses and disclosures

(1) Authorization required: General rule. Except as otherwise permitted or required by this subchapter, a covered entity may not use or disclose protected health information without an authorization that is valid under this section. When a covered entity obtains or receives a valid authorization for its use or disclosure of protected health information, such use or disclosure must be consistent with such authorization.

AMERICAN MEDICAL ASSOCIATION PRINCIPLES OF MEDICAL ETHICS

12. Preamble

The medical profession has long subscribed to a body of ethical statements developed primarily for the benefit of the patient. As a member of this profession, a physician must recognize responsibility to patients first and foremost, as well as to society, to other health professionals, and to self. The following Principles adopted by the American Medical Association are not laws, but standards of conduct that define the essentials of honorable behavior for the physician.

. . .

II. A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities.

. . .

IV. A physician shall respect the rights of patients, colleagues, and other health professionals, and shall safeguard patient confidences and privacy within the constraints of the law.

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COST RECOVERY

13. Effective on January 1, 2022, section 125.3 of the Code was amended to provide as follows:

> (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
>
> (b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.
>
> (c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.
>
> (d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).
>
> (e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.
>
> (f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.
>
> (g)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.
>
> (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.
>
> (h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.
>
> (i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.[1]

FACTUAL ALLEGATIONS

14. Respondent was a member of a hospital's medical staff for approximately thirty years. From approximately 2011 to approximately 2015, he served on various medical staff committees of the hospital, including the Medical Executive Committee and Ethics Committee. He also served as Chief of Medicine in or around 2012, 2014, and 2015. In those positions, he had access to, and came into possession of, confidential documents concerning patients, practitioners, and policies, programs, and activities of the hospital and medical staff. He received directions, which he acknowledged, that he needed to maintain the documents and information confidential, such as patient identifiable information and practitioner-specific credential and peer review information.

15. Following his service on the Medical Executive Committee, Respondent kept the confidential documents in his possession, which included documents relating to patients, peer review information relating to other practitioners, and documents relating to the hospital's quality of patient care and patient safety. The documents were the property of the hospital, and did not belong to Respondent personally.

16. In or around June of 2017, in response to a subpoena issued in a lawsuit between a patient's daughter and the hospital, Respondent disclosed the confidential documents to the patient's daughter and her attorney. The subpoena sought, "Any and all personal files you have maintained pertaining to your former role as a member of the [hospital] Medical Executive Committee, including any notes, memoranda, or other writings." However, Respondent disclosed over 7,000 pages of confidential documents, including documents that contained identifiable patient information, information related to the peer review of identified practitioners, and information related to the quality of the hospital's patient care and patient safety. The documents

[1] Effective January 1, 2022, subdivision (k) of Section 125.3, which exempted physicians and surgeons from paying recovery of the costs of investigation and prosecution by the Board, was repealed.

included, but were not limited, to: (a) documents containing detailed information describing the medical conditions and treatment of patients; (b) credentialing information, peer-review evaluations, and complaints pertaining to members of the hospital's medical staff; and (d) meeting agenda packets for Medical Executive Committee meetings between 2010 and 2012.

17. Respondent disclosed the confidential documents without taking steps to protect patient or practitioner privacy and to protect medical staff confidentiality. Respondent failed to consult an attorney or consult with the hospital's medical staff before responding to the civil subpoena.

18. The patient's daughter and her attorney produced the confidential documents as part of discovery in the lawsuit against the hospital. On or about October 30, 2017, the hospital obtained a Protective Order Requiring the Destruction and/or Return of Confidential Documents from the Superior Court of California. The court order mandated that the patient's daughter and her attorney destroy and/or return all copies of the confidential documents transmitted to them by Respondent.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

19. Respondent is subject to disciplinary action under section 2234 of the Code in that he engaged in unprofessional conduct by maintaining and disclosing confidential documents, including but not limited to, credentialing and peer review information, protected patient health information, and confidential hospital information. The circumstances are as follows:

20. The facts and allegations in Paragraphs 14 through 18, above, are incorporated by reference and re-alleged as if fully set forth herein.

21. Respondent repeatedly failed to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and repeatedly failed to appropriately dispose of documents containing patient health information.

22. Respondent repeatedly failed to appropriately dispose of documents containing confidential information on the hospital's quality of patient care and patient safety.

23. Respondent repeatedly failed to comply with the hospital's organizational rules by

failing to appropriately dispose of documents containing confidential medical personnel information, meeting minutes and agendas, and hospital protocols.

24. Respondent shared files that included confidential information regarding patients and organizational care quality to another party in response to a civil subpoena. He failed to notify a supervisor at the hospital or forward the subpoena to the appropriate individual or department at the hospital for review and handling as deemed appropriate.

25. Respondent's actions violated patient privacy, the privacy of medical staff members, Civil Code section 56.10, subdivision (a) [Confidentiality of Medical Information Act], HIPAA, the policy behind Evidence Code section 1157, the hospital's Medical Staff Bylaws, Rules, Regulations, and policies concerning confidentiality, and Principles II and IV of the American Medical Association Principles of Medical Ethics.

26. Respondent's acts and/or omissions as set forth in Paragraphs 19 through 25, inclusive above, whether proven individually, jointly, or in any combination thereof, constitute unprofessional conduct pursuant to Code section 2234. Therefore, cause for discipline exists.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 41829, issued to Respondent Eugene Ralph Dorio, M.D.;

2. Revoking, suspending or denying approval of Eugene Ralph Dorio, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Eugene Ralph Dorio, M.D. to pay the Board reasonable costs of investigation and prosecution incurred after January 1, 2022.

4. If placed on probation, ordering Eugene Ralph Dorio, M.D. to pay the Board the costs of probation monitoring; and

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5. Taking such other and further action as deemed necessary and proper.

DATED: MAR 0 4 2022

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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