

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

In the Matter of the Accusation
Against:

Michael Ira Keller, M.D.

Physician's and Surgeon's
Certificate No. G 28715

Respondent.

Case No. 800-2017-039034

DECISION

The attached Stipulated Surrender of License 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

DEC 10 2020

IT IS SO ORDERED DEC 03 2020

MEDICAL BOARD OF CALIFORNIA



William Prasifka
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 CHRISTINE A. RHEE
Deputy Attorney General
4 State Bar No. 295656
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9455
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

14 **MICHAEL IRA KELLER, M.D.**
15 **3633 Camino del Rio S., Ste. 300**
San Diego, CA 92108

16 **Physician's and Surgeon's Certificate**
17 **No. G28715,**

18 Respondent.

Case No. 800-2017-039034

OAH No. 2020050007.

STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. William Prasifka¹ (Complainant) is the Executive Director of the Medical Board of
24 California (Board). He brought this action solely in his official capacity and is represented in this
25 matter by Xavier Becerra, Attorney General of the State of California, by Christine A. Rhee,
26 Deputy Attorney General.

27
28 ¹ Accusation No. 800-2017-039034 named Christine J. Lally, Interim Executive Director
of the Medical Board of California, as the Complainant. William Prasifka became the Executive
Director of the Board on June 15, 2020.

1 documents; the right to reconsideration and court review of an adverse decision; and all other
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

3 8. Having had the benefit of counsel, Respondent voluntarily, knowingly, and
4 intelligently waives and gives up each and every right set forth above.

5 **CULPABILITY**

6 9. Respondent admits to the truth of the first cause for discipline in Accusation No. 800-
7 2017-039034.

8 10. Respondent does not contest that, at an administrative hearing, Complainant could
9 establish a prima facie case with respect to the second cause for discipline in Accusation No. 800-
10 2017-039034.

11 11. Respondent agrees that if he files a petition for reinstatement or re-licensure, or an
12 accusation and/or petition to revoke probation is filed against him before the Medical Board of
13 California, all of the charges and allegations contained in Accusation No. 800-2017-039034 shall
14 be deemed true, correct, and fully admitted by Respondent for purposes of any such hearing or
15 any other licensing proceeding involving Respondent in the State of California.

16 12. Respondent understands that by signing this stipulation he enables the Board to issue
17 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
18 process.

19 **CONTINGENCY**

20 13. Pursuant to Business and Professions Code section 2224, subdivision (b), the
21 Executive Director of the Board has been delegated the authority to adopt or reject a stipulation
22 for surrender of a Physician's and Surgeon's Certificate.

23 14. The parties agree that this Stipulated Surrender of License and Disciplinary Order
24 shall be null and void and not binding upon the parties unless approved by the Executive Director
25 on behalf of the Board. Respondent fully understands and agrees that in deciding whether or not
26 to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive
27 Director and/or the Board may receive oral and written communications from its staff and/or the
28 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the

1 Executive Director, the Board, any member thereof, and/or any other person from future
2 participation in this or any other matter affecting or involving Respondent. In the event that the
3 Executive Director on behalf of the Board does not, in his discretion, approve and adopt this
4 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it
5 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied
6 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees
7 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason
8 by the Executive Director on behalf of the Board, Respondent will assert no claim that the Board,
9 or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of
10 this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related
11 hereto.

12 15. The Executive Director shall have a reasonable period of time in which to consider
13 and act on this stipulation after receiving it. By signing this stipulation, Respondent fully
14 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation
15 prior to the time the Executive Director considers and acts upon it.

16 **ADDITIONAL PROVISIONS**

17 16. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
18 herein to be an integrated writing representing the complete, final, and exclusive embodiment of
19 the agreements of the parties in the above-entitled matter.

20 17. The parties agree that copies of this Stipulated Surrender of License and Disciplinary
21 Order, including copies of the signatures of the parties, may be used in lieu of original documents
22 and signatures and, further, that such copies shall have the same force and effect as originals.

23 18. In consideration of the foregoing admissions and stipulations, the parties agree that
24 the Board may, without further notice or formal proceeding, issue and enter the following Order:

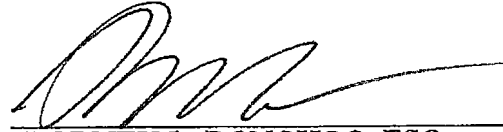
25 **DISCIPLINARY ORDER**

26 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G28715, issued
27 to Respondent Michael Ira Keller, M.D., is surrendered and accepted by the Board.

28 ///

1 I have read and fully discussed with Respondent Michael Ira Keller, M.D., the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4
5 DATED: 9/21/20



6 RODNEY L. DONOHOO, ESQ.
7 *Attorney for Respondent*

8 **ENDORSEMENT**

9 The foregoing Stipulated Surrender of License and Disciplinary Order is hereby
10 respectfully submitted for consideration by the Medical Board of California of the Department of
11 Consumer Affairs.

12 DATED: _____

13 Respectfully submitted,

14 XAVIER BECERRA
15 Attorney General of California
16 ALEXANDRA M. ALVAREZ
17 Supervising Deputy Attorney General

18 CHRISTINE A. RHEE
19 Deputy Attorney General
20 *Attorneys for Complainant*

21 SD2019703293
22 82457871.docx
23
24
25
26
27
28

1 I have read and fully discussed with Respondent Michael Ira Keller, M.D., the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4
5 DATED: _____

RODNEY L. DONOHOO, ESQ.
Attorney for Respondent

7 **ENDORSEMENT**

8 The foregoing Stipulated Surrender of License and Disciplinary Order is hereby
9 respectfully submitted for consideration by the Medical Board of California of the Department of
10 Consumer Affairs.

11 DATED: September 21, 2020

Respectfully submitted,

12 XAVIER BECERRA
13 Attorney General of California
14 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

15 

16 CHRISTINE A. RHEE
17 Deputy Attorney General
Attorneys for Complainant

18
19
20 SD2019703293
82457871.docx

Exhibit A

Accusation No. 800-2017-039034

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 CHRISTINE A. RHEE
Deputy Attorney General
4 State Bar No. 295656
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9455
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 800-2017-039034

14 **MICHAEL IRA KELLER, M.D.**
15 **3633 Camino Del Rio S., Ste. 300**
San Diego, CA 92108

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. G28715,**

Respondent.

18
19
20 **PARTIES**

21 1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity
22 as the Interim Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).

24 2. On or about January 6, 1975, the Medical Board issued Physician's and Surgeon's
25 Certificate Number G28715 to Michael Ira Keller, M.D. (Respondent). Physician's and
26 Surgeon's Certificate No. G28715 was in full force and effect at all times relevant to the charges
27 brought herein and will expire on October 31, 2021, unless renewed.

28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code states, in pertinent part:

6 (a) A licensee whose matter has been heard by an administrative law judge of
7 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
8 Code, or whose default has been entered, and who is found guilty, or who has entered
9 into a stipulation for disciplinary action with the board, may, in accordance with the
10 provisions of this chapter:

11 (1) Have his or her license revoked upon order of the board.

12 (2) Have his or her right to practice suspended for a period not to exceed one
13 year upon order of the board.

14 (3) Be placed on probation and be required to pay the costs of probation
15 monitoring upon order of the board.

16 (4) Be publicly reprimanded by the board. The public reprimand may include a
17 requirement that the licensee complete relevant educational courses approved by the
18 board.

19 (5) Have any other action taken in relation to discipline as part of an order of
20 probation, as the board or an administrative law judge may deem proper.

21 ...

22 5. Section 820 of the Code states:

23 Whenever it appears that any person holding a license, certificate or permit
24 under this division or under any initiative act referred to in this division may be
25 unable to practice his or her profession safely because the licentiate's ability to
26 practice is impaired due to mental illness, or physical illness affecting competency,
27 the licensing agency may order the licentiate to be examined by one or more
28 physicians and surgeons or psychologists designated by the agency. The report of the
examiners shall be made available to the licentiate and may be received as direct
evidence in proceedings conducted pursuant to Section 822.

29 6. Section 821 of the Code provides that the licentiate's failure to comply with an order
30 issued under section 820 shall constitute grounds for the suspension or revocation of the
31 licentiate's certificate of license.

32 7. Section 822 of the Code states:

33 If a licensing agency determines that its licentiate's ability to practice his or her
34 profession safely is impaired because the licentiate is mentally ill, or physically ill
35 affecting competency, the licensing agency may take action by any one of the
36 following methods:

37 (a) Revoking the licentiate's certificate or license.

38 (b) Suspending the licentiate's right to practice.

 (c) Placing the licentiate on probation.

1 (d) Taking such other action in relation to the licentiate as the licensing agency
2 in its discretion deems proper.

3 The licensing agency shall not reinstate a revoked or suspended certificate or
4 license until it has received competent evidence of the absence or control of the
5 condition which caused its action and until it is satisfied that with due regard for the
6 public health and safety the person's right to practice his or her profession may be
7 safely reinstated.

8 8. Section 2234 of the Code states, in pertinent part:

9 The board shall take action against any licensee who is charged with
10 unprofessional conduct. In addition to other provisions of this article, unprofessional
11 conduct includes, but is not limited to, the following:

12 ...
13 (e) The commission of any act involving dishonesty or corruption that is
14 substantially related to the qualifications, functions, or duties of a physician and
15 surgeon.
16 ...

17 9. Section 2239 of the Code states:

18 (a) The use or prescribing for or administering to himself or herself, of any
19 controlled substance; or the use of any of the dangerous drugs specified in Section
20 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
21 or injurious to the licensee, or to any other person or to the public, or to the extent that
22 such use impairs the ability of the licensee to practice medicine safely or more than
23 one misdemeanor or any felony involving the use, consumption, or
24 self-administration of any of the substances referred to in this section, or any
25 combination thereof, constitutes unprofessional conduct. The record of the
26 conviction is conclusive evidence of such unprofessional conduct.

27 (b) A plea or verdict of guilty or a conviction following a plea of nolo
28 contendere is deemed to be a conviction within the meaning of this section. The
Division of Medical Quality may order discipline of the licensee in accordance with
Section 2227 or the Division of Licensing may order the denial of the license 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 imposition of
sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
the Penal Code allowing such person to withdraw his or her plea of guilty and to enter
a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
complaint, information, or indictment.

FIRST CAUSE FOR DISCIPLINE

(Failure to Comply with a Board Order Issued Pursuant to Business and Professions Code Section 820)

10. Respondent has subjected his Physician's and Surgeon's Certificate No. G28715 to
disciplinary action under sections 2227 and 821 of the Code, in that he failed to comply with a
Board order issued pursuant to Business and Professions Code section 820, as more particularly
alleged hereinafter:

///

1 11. On or about December 1, 2017, the Board received an anonymous online complaint,
2 alleging that Respondent seemed demented, forgetful, and unable to focus. The complaint also
3 alleged that Respondent's assistants did most of his job.

4 12. On or about April 19, 2018, Board investigators went to Respondent's office, SD
5 Arthritis Medical Clinic, and spoke to Respondent and his office manager.

6 13. Board Investigator A.M. (Investigator A.M.) told Respondent that the Board had
7 some concerns that Respondent may be suffering from dementia and/or had other issues that may
8 be affecting his ability to practice. Respondent said that he was fine. When asked whether he
9 was slowing down, Respondent replied he was slowing down as much as any 72-year old would.
10 When asked what procedures Respondent did in the office, Respondent told the investigators that
11 he did joint injections, trigger points and blocks. He said he no longer did epidurals and referred
12 patients to pain specialists.

13 14. Respondent told Investigator A.M. that he had surgery on his neck five years prior for
14 spinal stenosis, and that he felt the effects of the surgery but was fine. Respondent said he did not
15 take pain medication anymore. When asked to clarify, Respondent said that he took one or two
16 oxycodone¹ per month. Respondent told Investigator A.M. that W.W., M.D., did his spinal
17 surgery. Investigator A.M. observed that Respondent was very slow and deliberate with his
18 answers, and paused before answering.

19 15. On or about April 23, 2018, Investigator A.M. reviewed a certified CURES² patient
20 profile for Respondent. Respondent's CURES patient profile showed that W.W., M.D., had been
21 prescribing Respondent controlled substances from on or about November 7, 2015 through on or
22 about March 20, 2018. From on or about June 27, 2016 through on or about March 20, 2018,
23 Respondent was filling prescriptions written by W.W., M.D., for 120 oxycodone tablets, on
24 average, every 30 to 60 days. The CURES patient profile report also indicated that Respondent

25 _____
26 ¹ Oxycodone is an opiate and a Schedule II controlled substance pursuant to Health and
Safety Code section 11055, subdivision (b).

27 ² The Controlled Substance Utilization Review and Evaluation System (CURES) is a
28 database of Schedule II, III, and IV controlled substance prescriptions dispensed in California
serving the public health, regulatory oversight agencies, and law enforcement.

1 had self-prescribed hydrocodone³ bitartrate-acetaminophen on or about June 7, 2016, and
2 phentermine⁴ on or about February 21, 2017.

3 16. On or about April 23, 2018, Investigator A.M. spoke to Pharmacist S.P., who worked
4 at El Centro Pharmacy. Respondent filled the phentermine and hydrocodone prescriptions,
5 referenced in paragraph 14, above, at El Centro Pharmacy. Pharmacist S.P. told her that
6 Respondent picked up medications prescribed to himself.

7 17. Pharmacist S.P. told Investigator A.M. that Respondent tried to self-prescribe
8 clonazepam⁵ on or about March 20, 2017. Pharmacist S.P. refused to fill that prescription, and
9 asked Respondent to have his doctor call it in for him. Respondent asked Pharmacist S.P. to call
10 W.W., M.D., to obtain authorization for the prescription. Pharmacist S.P. called W.W., M.D.,
11 who denied Respondent's request for clonazepam. Pharmacist S.P. verified that Respondent self-
12 prescribed phentermine on or about February 21, 2017, but told Investigator A.M. that the
13 hydrocodone prescription from June 7, 2016 was entered incorrectly, and was not self-prescribed.

14 18. On or about May 2, 2018, Investigator A.M. contacted Pharmacist L.T., who works at
15 Costco Pharmacy in El Centro. Pharmacist L.T. told her that within the last two months,
16 Respondent had come into her pharmacy with a prescription for Klonopin, the brand name for
17 clonazepam, written for Respondent by his practice partner. The prescription was for 90 tablets
18 of 1 mg Klonopin, to be taken three times a day. Respondent told Pharmacist L.T. that he was
19 taking Klonopin for sleep. Pharmacist L.T. tried to call Respondent's practice partner to speak to
20 him about this prescription, but was not able to get into contact with him. Pharmacist L.T.
21 ultimately did not fill the prescription and told Respondent to bring it back with the correct
22 dosing. Respondent never returned to Costco Pharmacy with a corrected prescription.

23 19. On or about July 10, 2018, the Medical Board issued an Order Compelling Mental
24 and Physical Examinations with Biological Fluid Testing.

25
26 ³ Hydrocodone is an opioid and a Schedule II controlled substance pursuant to Health and
Safety Code section 11055, subdivision (b).

27 ⁴ Phentermine is a stimulant and a Schedule IV controlled substance pursuant to Health
and Safety Code section 11057, subdivision (f).

28 ⁵ Clonazepam, brand name Klonopin, is a benzodiazepine and a Schedule IV controlled
substance pursuant to Health and Safety Code section 11057, subdivision (d).

1 20. On or about July 27, 2018, the Medical Board's Order Compelling Mental and
2 Physical Examinations with Biological Fluid Testing was extended for five (5) days.

3 21. On or about August 8, 2018, Respondent submitted to a physical examination with
4 L.R., M.D., Board-certified internist.

5 22. On or about August 10, 2018, Respondent submitted to a mental examination with
6 S.R., M.D. (Dr. R.), a Board-certified psychiatrist. During the examination, Respondent denied
7 ever prescribing controlled substances to himself.

8 23. Following the examination, Dr. R. wrote reports summarizing his conclusions. Dr. R.
9 determined that Respondent has an unspecified neurocognitive disorder that affected his ability to
10 practice safely. Dr. R. recommended that Respondent undergo a detailed neuropsychological
11 evaluation with psychometric testing.

12 24. On or about February 5, 2019, the Medical Board issued an Order compelling
13 Respondent to submit to a neuropsychiatric examination within 30 days. On or about the same
14 day, the Medical Board served a copy of the Order on Respondent by certified mail. The Order
15 was sent to Respondent's address of record with the Medical Board. A letter accompanying the
16 Order informed Respondent that he should contact Investigator A.M. or her office to set up the
17 neuropsychological evaluation.

18 25. Between February 5, 2019 and March 6, 2019, Respondent failed to contact
19 Investigator A.M. or her office to set up the neuropsychiatric appointment.

20 26. On or about March 11, 2019, Investigator A.M. e-mailed Respondent's counsel about
21 the February 5, 2019 Order, and asked whether Respondent was willing to submit to the
22 evaluation. On or about March 13, 2019, Respondent's counsel replied to her e-mail and stated
23 that he would talk to his client about the evaluation.

24 27. On or about March 21, 2019 and April 2, 2019, Investigator A.M. e-mailed
25 Respondent's counsel to see whether Respondent would submit to the neuropsychiatric
26 examination. He did not respond to her e-mails.

27 ///

28 ///

1 28. On or about April 22, 2019, Investigator A.M. sent Respondent's counsel another e-
2 mail with two dates and times in which Respondent could submit to a neuropsychiatric
3 evaluation. He never responded to her e-mail.

4 29. On or about May 1, 2019, Investigator A.M. sent a letter to Respondent and his
5 attorney informing them that an appointment had been scheduled with a neuropsychologist for
6 Respondent's Board-ordered evaluation. She sent the letter by first class and certified mail to
7 Respondent, and certified mail to his attorney. The appointment was scheduled for June 21,
8 2019, at 8:00 a.m., and listed where the evaluation was to take place.

9 30. On or about May 3, 2019, Board investigators attempted to serve Respondent with the
10 letter dated May 1, 2019, at his office in San Diego. The investigators were not allowed to see
11 Respondent, and his assistant, B.A. told them that Respondent's attorney told her to refuse to
12 accept this letter. On or about the same day, Investigator A.M. called Respondent's counsel and
13 left him a message about this matter. He did not return her call.

14 31. On or about May 6, 2019, Investigator A.M. received a return receipt confirming
15 delivery of the May 1, 2019 letter sent to Respondent.

16 32. On or about June 21, 2019, the Board's neuropsychologist informed Investigator
17 A.M. that Respondent did not show up for his appointment.

18 33. On or about July 25, 2019, the Medical Board issued another Order Compelling
19 Neuropsychiatric Examination. It stated that Respondent must submit to a neuropsychiatric
20 evaluation within 30 days of personal service of the Order.

21 34. On or about August 5, 2019, Investigator A.M. went to Respondent's office and
22 address of record to serve him with the Order dated July 25, 2019. She observed patients in the
23 waiting room. Investigator A.M. informed the employee at the front desk that she needed to
24 deliver a letter to Respondent, and the employee told her that she would have to come back to talk
25 to Respondent's assistant, B.A., who was not there. Investigator A.M. explained to the employee
26 that she only needed to give Respondent a letter. The employee told her to wait in the waiting
27 area while he went back towards Respondent's office. After approximately 30 minutes, the
28 investigators heard employees at the reception desk tell patients that Respondent had to leave

1 suddenly and that his appointments were being rescheduled. Investigator A.M. asked the front
2 desk assistant, N.J., whether she would deliver the letter to Respondent. N.J. said she would, and
3 Investigator A.M. gave her a copy of the Order dated July 25, 2019, and a letter that explained
4 that an appointment for a neuropsychiatric evaluation had been scheduled for August 30, 2019, at
5 9:00 a.m.

6 35. On or about August 5, 2019, Investigator A.M. went to Respondent's counsel's office
7 and hand-delivered a copy of the July 25, 2019 Order and letter with the details of Respondent's
8 scheduled neuropsychiatric appointment.

9 36. On or about August 28, 2019, Investigator A.M. received an e-mail from
10 Respondent's counsel. He notified her that she had only delivered the first page of the Order
11 dated July 25, 2019, to him and Respondent's office.

12 37. On or about August 30, 2019, Investigator A.M. tried to deliver a copy of the Order
13 dated July 25, 2019, to Respondent at his office. She was told that Respondent was on vacation
14 until September 9, 2019.

15 38. On or about September 9, 2019, Investigator A.M. personally served Respondent with
16 a copy of the July 25, 2019 Order.

17 39. On or about September 26, 2019, Investigator A.M. received an e-mail from
18 Respondent's counsel which stated that Respondent would not attend the Board-ordered
19 neuropsychiatric evaluation.

20 40. To date, Respondent has not submitted to a neuropsychiatric examination, as ordered
21 by the Board.

22 **SECOND CAUSE FOR DISCIPLINE**
23 **(Self Prescribing Controlled Substances or Dangerous Drugs)**

24 41. Respondent has further subjected his Physician's and Surgeon's Certificate No.
25 G28715 to disciplinary action under sections 2227 and 2239 of the Code, in that Respondent self-
26 prescribed controlled substances or dangerous drugs, as more particularly alleged in paragraphs
27 11 through 40, above, which are hereby incorporated by reference and re-alleged as if fully set
28 forth herein.

