

State Bar Court of California
Hearing Department
San Francisco

PUBLIC MATTER

<p>Counsel For The State Bar</p> <p>Robert A. Henderson 180 Howard St. San Francisco, CA 94105 (415) 538-2385</p> <p>Bar # 173205</p>	<p>Case Number (s) 08-O-13224</p>	<p>(for Court's use)</p> <p>FILED </p> <p>JUN 19 2009</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel For Respondent</p> <p>Russell Roeca Roeca Haas Hager LLP 351 California St., Suite 900 San Francisco, CA 94104 (415) 352-0980</p> <p>Bar # 97297</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of: Daniel R. Bartley</p> <p>Bar # 79586</p> <p>A Member of the State Bar of California (Respondent)</p>		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **May 31, 1978**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **28** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."

(Do not write above this line.)

- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - costs to be paid in equal amounts prior to February 1 for the following membership years:
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

(Stipulation form approved by SBC Executive Committee 10/16/00. Revised 12/16/2004; 12/13/2006.)

Actual Suspension

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct. **See attachment.**
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct. **Respondent promptly closed his client trust account.**
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature. **See attachment.**
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances

Respondent has no prior discipline over many years of practice.

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **one-year**.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

(b) The above-referenced suspension is stayed.

(2) **Probation:**

Respondent must be placed on probation for a period of **one-year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) **Actual Suspension:**

(a) Respondent must be actually suspended from the practice of law in the State of California for a period of **60-days**.

- i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

- (5) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.

No Ethics School recommended. Reason:

- (9) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) The following conditions are attached hereto and incorporated:
- | | |
|---|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 954-9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason:

- (2) **Rule 955-9.20, California Rules of Court:** Respondent must comply with the requirements of rule 955-9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

(Do not write above this line.)

- (3) **Conditional Rule 955-9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule ~~955-9.20~~, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.

- (4) **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:

- (5) **Other Conditions:**

Attachment language begins here (if any):

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Daniel R. Bartley
CASE NUMBER(S): ET AL. 08-O-13224

FACTS AND CONCLUSIONS OF LAW.

Respondent maintained an Attorney-Client Trust Account ("Trust Account") at Bank of Marin, account no. 0005-31XXXX. On May 29, 2008, respondent wrote check no. 1048 in the amount of \$6,200. On June 3, 2008, check no. 1048 was presented for payment. On June 3, 2008, respondent's Trust Account had \$5,810.04. On June 3, 2008 after the bank imposed overdraft fee of \$25, respondent's Trust Account had a negative balance of \$414.96. The Bank of Marin timely notified the State Bar of California of the overdraft.

During the 2008 period in question, respondent spent much of the time out-of-state, in Kentucky, due to a family emergency that required him to handle the medical, legal, financial and other personal affairs of his mother. The bank where respondent's Trust Account was located had no out-of-state branches.

On December 1, 2008, the State Bar subpoenaed respondent's Trust Account records for March 1, 2008 through September 30, 2008. Upon receipt and review of the Trust Account records it became apparent that respondent commingled his own funds in the Trust Account. Upon receipt and review of the Trust Account records it is clear that no client's funds were misappropriated.

Between March 1, 2008 and September 30, 2008, respondent commingled his own funds in the Trust Account and used those funds to pay personal expenses.

Between March 1, 2008 and September 30, 2008, respondent did not misappropriate any client funds from the Trust Account.

Between March 1, 2008 and September 30, 2008, respondent did not keep client funds in the Trust Account.

Respondent promptly admitted the commingling when asked about the Trust Account.

By commingling his own funds in the Trust Account respondent willfully violated California Rules of Professional Conduct, rule 4-100(A).

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was May 14, 2009.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of May 5, 2009, the prosecution costs in this matter are \$2,054.50. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

AUTHORITIES SUPPORTING DISCIPLINE.

Standard 2.2(b) – “Culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100, Rules of Professional Conduct, none of which offenses result in the willful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.”

In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420 – McKiernan received 90-days actual suspension for allowing a client to use his Trust Account. McKiernan also borrowed Trust Account funds from his client, using those funds to pay personal obligations. Respondent had no prior discipline. The Review Dept. noted that: “Respondent was charged with violating rule 4-100, and the purpose of that rule is to provide against the probability in some cases, the possibility in many cases, and the danger in all cases that commingling of personal funds with client funds will result in the loss of client money.” (Citation omitted.) *McKiernan at 425.*

MITIGATING CIRCUMSTANCES.

(C)(2) No Harm – A review of the Trust Account records showed that no client money had been misappropriated.

(C)(4) Remorse – Respondent promptly closed the Trust Account at Bank of Marin when the commingling issue was raised. Respondent no longer takes any advanced costs or client funds, therefore removing his need for a Trust Account.

(C)(10) Family Problems – Respondent was under severe stress due to the illness of his mother. See attached declarations of: 1) Anna Bartley; 2) C. Michael Stansbury; 3) James Belcher; 4) Norman E. Edwards; and 5) Eldred E. Adams, Jr.

STATE BAR ETHICS SCHOOL.

Because respondent has agreed to attend State Bar Ethics School as part of this stipulation, respondent may receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

Respondent admits that the above facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

AFFIDAVIT OF ELDRED E. ADAMS, JR.

STATE OF KENTUCKY

COUNTY OF LAWRENCE

Comes the affiant, Eldred E. Adams, Jr., and after being duly sworn, states and deposes as follows:

1. That he has been licensed to practice law in the State of Kentucky since April, 1973. For a short period of time before he went in active military service in the United States Air Force, he practiced law in Louisa, Kentucky with his father, Former Judge Eldred E. Adams, Sr. That at the time he commenced practice in Louisa, Kentucky, Dan Bartley was also actively practicing. That he knows Dan Bartley both personally and professionally and can say without hesitation or equivocation that Mr. Bartley has always maintained the highest and ethical and professional standards.

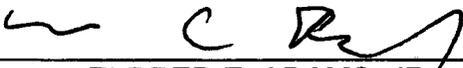
2. That Mr. Bartley has always been very close to his mother (Anna Bartley) and father (Robert Bartley) since he is their only child. That he has been especially attentive to his mother since the death of his father. Dan has always be protective and supportive of his parents and this has been especially true since his father passed away.

3. That in 2005 the affiant filed a case (Lawrence Circuit Court, Civil Action No. 2005-CI-00026) concerning a property dispute on behalf of Anna and Robert Bartley. The matter was concluded in 2007. During the litigation Robert Bartley passed away and it was continued in the name of Anna Bartley.

While Dan Bartley was never actual counsel of record, he served as a defacto co-counsel in the matter. The affiant has reviewed his case file and computer records of the matter and would estimate that there are at lease between fifty and seventy-five e-mails between him and Dan Bartley relating to the case. In addition there were phone calls concerning the matter. The affiant discussed the trial strategy and the course of the case almost exclusively with Dan Bartley. The affiant specifically remembers spending a significant period of time with Dan Bartley reviewing the mediation presentation. When the case was mediated Mr. Bartley appeared on behalf of his mother who was too frail to attend. He played a dual role throughout these proceedings as both a loving son and an attorney acting as my co-counsel.

4. My paralegal reviewed her e-mails and found extensive communications from Dan Bartley during 2008. When Mr. Bartley's mother was in ICU, my office, as a favor to Mr. Bartley, picked up from the county court clerk's office certified copies of the general power of attorney from Anna Bartley to Dan Bartley, to facilitate Mr. Bartley's handling his mother's medical, legal, and other personal affairs. In addition, my paralegal informs me she had telephone conversations with Mr. Bartley concerning Anna Bartley's legal affairs.

This the 16th day of March, 2009.

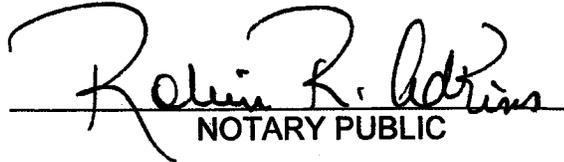


ELDRED E. ADAMS, JR.

STATE OF KENTUCKY

COUNTY OF LAWRENCE

Subscribed and sworn to before me by Eldred E. Adams, Jr. this the 16th
day of March, 2009.


NOTARY PUBLIC

(SEAL)

MY COMMISSION EXPIRES 4-7-2012

DECLARATION OF ANNA R. BARTLEY

The following assertions of fact are true, are personally known to me, and are facts to which I am willing and competent to testify if called upon to do so:

1. I provide this declaration in response to an inquiry by the State Bar of California into Dan's use of funds of mine that were deposited in his law office trust account.
2. I am Daniel Robert Bartley's mother. I reside at 345 Locust Avenue, Louisa, Lawrence County, Kentucky, our family home continuously since 1965. I am 82 years old, having been born in Elkhorn City, Kentucky, on February 18, 1927. I am a retired nurse, having worked for over two decades in a family practice clinic here in Louisa. During World War II, when I was young, I worked at a plant in Cincinnati, canning large cans of food being shipped off to the war effort. During subsequent years, before I became a nurse, I did jobs such as working as a sales clerk in the coal company's "company store", working as a sales clerk in a clothing store, and working as a seamstress on a high-speed machine at a garment manufacturing plant.
3. Dan's father, Robert E. Bartley, at age 79, passed away in June 25, 2005. In his youth, after receiving an honorable discharge from the U.S. Navy, where he served as an anti-aircraft gunner on ships in the Pacific in World War II, Bob worked for coal mining companies that would all ultimately under, given that coal back then was a "boom or bust" business. Later, Bob worked various jobs in construction. In 1960, we moved from Hellier, Pike County, Kentucky, to Louisa, Lawrence County, Kentucky, approximately 100 miles north, where Bob had been working on the construction of a new American Electric Power ("AEP") coal-fired power plant. In approximately 1970, Bob, in his mid-40's, was fortunate enough to land a permanent job with the Calgon Corporation activated carbon manufacturing plant in Catlettsburg, Kentucky. Bob

continuously worked there into the 1990's. He was a machine operator, bagging carbon, on alternating shifts, from day shift to evening shift to midnight shift. Bob was a kind and gentle husband and father. Notwithstanding that Dan, while in college, always worked at jobs such as construction laborer and apartment building manager, his father proudly held the Calgon plant record for overtime worked – he worked many double shifts, to pay off our home and to help with Dan's college and law school costs.

4. During the last decade of his life, Bob suffered severely from Alzheimer's and complications from adult-onset diabetes. For 2½ years preceding his passing in June 2005, my husband Bob was in a nursing home, a five-minute drive from our home. I always would dress up nicely and visit him for hours ever day he was there, except for one or two days when I simply was too sick to do so.

5. Other than our baby son Brian, who passed away shortly after birth in 1970, Dan is our only child.

6. Following his graduation from the University of Kentucky College of Law in 1972, Dan opened his own law office and practiced law for five years in our little town of Louisa, until he moved away to California in 1977.

7. From 1972 forward, Dan was, and always has been, my primary lawyer for family legal needs, ranging from employment issues at our work to other matters. For example, in approximately 1975, when Bob's plant was on strike, Dan stepped in to negotiate an end to violence on the part of a few employees, paving the way for resolution to a contentious and economically devastating strike that had endured for several months. Another time, after Dan moved to California, and after Bob injured his head when he raised up from a stooping position

and struck a steel beam while at work, the Calgon plant management told Bob they were “going to put you out to pasture”. Dan, citing the laws prohibiting age discrimination, stepped in and saved his father from losing his job, enabling him to work many more happy and productive years. Yet another time, Dan, from California, prosecuted a workers compensation claim that arose from a back injury I sustained at work. Yet another time, Dan, in approximately 1992, handled all legal and other issues associated with arranging and financing then-experimental TMR (trans-myocardial re-vascularization) heart surgery for his father, who, without such surgery, was on the road to suffering congestive heart failure. Also, Dan did all the legal work associated with getting government benefits to assist with his father’s nursing home costs. When Bob passed away in June, 2005, Dan flew back and took care of, and paid for, his dad’s funeral arrangements. During the period 2005–2006, Dan with the aid of local counsel Eldred E. Adams, Jr., prosecuted a court action involving neighbors at the rear of my home, who, out of the blue, shortly after Bob died, claimed about 25 feet of our back yard and, without notice, cut down all the trees at the rear of our home – trees Bob and I hand-planted in the 1960's and that afforded us our privacy. Also, Dan over the years advised us regarding such matters as his father’s coal miner’s black lung benefits claim, his father’s pension benefits, insurance claims, and the like.

8. We have always been a very, very close family, 100% there for each other in time of need. Even though Dan, in California, is married and has two children, son Ryan, age 14, and daughter Morgan, age 12, he has never hesitated to fly back to be with me and his father in time of need. When Bob had to have open heart bypass surgery in Lexington in the early 1980's, Dan was there with us, for weeks. Again, when Bob had to have the TMR surgery in Louisville approximately 1992, Dan was there, for weeks. When I had to have open heart bypass surgery in

Jacksonville in the mid-1990's, Dan again was there with us, for weeks, even though such emergency occurred during the middle of a jury trial and he had to ask the judge to halt the trial.

9. Dan in approximately 1995 totally surprised us with a brand-new home he had secretly built for us in St. Augustine, Florida. We spent the winters there until Bob in the early 2000's became too ill to do so. Dan also surprised us both with the purchase of safe new cars – a new Oldsmobile Aurora sedan for his father in 1994 and a new Acura MDX sports utility vehicle for me in 2003. He has always looked out for us.

10. In January 2005, on the brink of collapse from stress and sleepless nights attributable to being the 24-hour-a-day caregiver for Bob as his Alzheimer's became worse, I was hospitalized with a heart attack. Dan immediately, via telephone, arranged a caregiver for his dad, and flew back from California and spent weeks with us. He arranged and paid multiple caregivers for us, and, in the hope his father might get to stay at home, he installed safety railings and the like. When it became apparent his father's Alzheimer's had progressed to the point where he needed 24-hour professional care, it was Dan who made the gut-wrenching decision to take his dad to the nursing home. Dan handled all the legalities associated with that, while I lay in the hospital. Dan subsequently drafted a special trust for his father, which was required by the Kentucky Department of Family Services, which provided some assistance with the nursing home costs for Bob. Dan handled all subsequent legal interaction with such Department of Family Services, enabling me to keep my home.

11. During the year 2008, my health declined such that I again had to have a sitter to help take care of my daily needs. Dan did all the arrangements for such care. During June, 2008, when Dan was visiting me incident to a brief hospitalization for high blood sugar levels, I began

struggling for my breath, incident to congestive heart failure. Dan called the ambulance and had me taken to the emergency room, where I stopped breathing. I later learned from Dan and hospital staff that Dan had the ER staff engage in efforts to revive me; that, after about 10 minutes, the ER physician pronounced me dead; that seconds after being pronounced dead, I began breathing on my own. Dan was there with me all the while. During ensuing days, when I again suffered congestive heart failure while in the ICU, it was Dan who insisted that I be transferred to a hospital specializing in heart care. Dan managed all my medical care and all my needs from June forward, which medical care included emergency installation of stents into two of my coronary arteries. During the period June-September, 2008, I frequently was in the ICU. Dan during this period was with me, making important life-or-death decisions associated with my medical care and handling my legal and financial affairs.

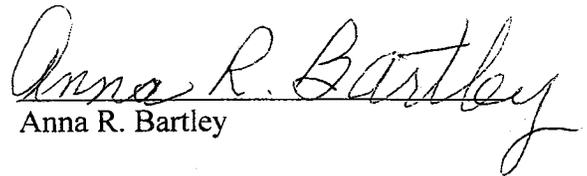
12. I during much of 2008 was unable to take care of my own affairs, and Dan had to take care of paying many of my bills. During 2008, I provided to Dan multiple deposits of my funds, deposited into his law office trust account. I gave Dan full authority and discretion to write checks on my funds, to pay any of *my* bills or *his* bills, given he was having to be away from his work.

13. I long ago provided to Dan a general power of attorney. Such power of attorney has never been revoked.

14. Ultimately, in 2008, to facilitate payment of my bills, and to enable Dan not to have to deposit my funds in his law office trust account, I added Dan as an authorized signer on my checking account at the Inez Deposit Bank, Louisa, Kentucky.

15. We are, and always have been, a very loving Christian family with strong moral values.

Executed under penalty of perjury under the laws of the State of California, this 13th day of March, 2009, at Louisa, Lawrence County, Kentucky.


Anna R. Bartley

DECLARATION OF JAMES E. BELCHER

The following assertions of fact are true, are personally known to me, and are facts to which I am willing and competent to testify if called upon to do so:

1. I provide this declaration in response to an inquiry by the State Bar of California into my nephew Daniel Bartley's deposit and use of funds of his mother's that were deposited into his law office trust account.

2. I am Dan Bartley's uncle. Anna Bartley is my sister. I reside at 1084 Kennedy Bridge Road, Harrodsburg, Kentucky 40330. I am 69 years old. I am retired from General Motors, and work in management, part-time, at the Lowe's store in Danville, Kentucky.

3. I on a daily basis stay in touch by telephone with my two sisters, Anna, age 82, and Geneva, age 84, each of whom lives over 150 miles, and about three hours drive, from me, in Eastern Kentucky. I also try to visit them in person every 2-3 months or so. Because of the age difference between my two older sisters and me, they always treated me with great love and affection. Ann especially gave me lots of guidance as a child and was, and still is, like a second mother to me.

4. In the spring of 2008, upon a personal visit with Ann, I observed she had experienced a significant decline in her health. I then telephoned Dan and apprised him that his mom needed help. Dan, who, like me, checks on his mom daily via telephone, had arranged a sitter for his mom, but, Ann, being a very independent sort, a few weeks earlier had let the sitter go and was trying to make do by herself, without any assistance. While Dan got the sitter back, Ann in short order was hospitalized, and things went from bad to worse. Dan came back to Kentucky and, during the period June-September, spent much of his time period with his mom, away from his

law practice and his wife and two minor children. Ann, through much of 2008, was in very bad shape, and near death, and was not able to manage her own medical, legal, and financial affairs. She ultimately had to have the intervention of a heart surgeon, who, at significant risk, since she was suffering from life-threatening pneumonia, installed stents in two of her coronary arteries.

5. Dan has always tried to be there for his mom, to help her with her legal and medical affairs. In June through September, 2008, Dan on different occasions spent weeks staying in the "hospitality house" at King's Daughters Hospital, Ashland, Kentucky, so he could be near Ann and manage her medical, legal, and financial affairs. He was almost continually at her side. This included paying her bills and the like. I was there myself during some of this time, and saw first-hand that Ann was totally helpless and incapacitated, in the ICU, on life support, for weeks at a time. It was a horrible time, very difficult for the whole family, including myself, to endure.

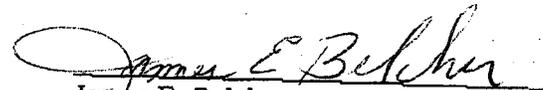
6. Dan has always tried to do what is in the best interest of his parents, to be there not only as their son but also their attorney. He has been a good son and has been very close to his mom and his dad. His dad, Bob, passed away in June 2005, after years of suffering from Alzheimer's and diabetes. Dan managed all the arrangements, including legal and financial technicalities, associated with Bob's nursing home residence for 2½ years and in connection with his passing. Bob, Ann, and Dan were always a very loving and very close family.

7. Dan over the years repeatedly attempted to persuade his folks to move to California to be close to him, but they would never do so – not even after their grandson was born in 1994 and their first granddaughter was born in 1996. Though Dan and I in late 2008 persuaded Ann to do a 3-day trial run at a retirement home in Danville near where I live, we cannot get her to budge

from her home. Ann just loves her home, her friends, and the little town where she lives, and wants to stay there as long as she possibly is able to do so. We do have Home Health visiting her regularly, and she does have a sitter who occasionally visits. She now is bouncing back from the horrible near-death state she was in during much of 2008.

8. There was nothing untoward about Dan using his mom's funds, on deposit in his law office trust account, to pay bills, including some of his own, given he was not able to work for many months during 2008 because he had to be at his mom's bedside. Such was with Ann's complete approval. Dan is the only surviving child and heir of Ann and Bob. Dan and his parents have always been there for each other in time of need, and always have been very generous with one another. By way of example, Dan bought both their cars, took care of his dad's funeral expenses, and, for about a decade, until Bob became very sick from Alzheimer's, had a lovely 2-story home in St. Augustine, Florida, for his parents. He pays the monthly payment for his mom's LifeAlert emergency pendant, provides and pays for her cell phone, and otherwise helps her. He found, interviewed, and hired multiple sitters for her, and at times paid them directly from his own funds. Given that Dan always served, and continues to serve, as his mom's primary attorney relative to her legal affairs, and given that she for many months in 2008 was not able to take care of her financial affairs, it was understandable and reasonable that Dan had some of his mom's funds in his law office trust account, to pay out for needs of Ann and the extended family as may be required.

Executed under penalty of perjury under the laws of the State of California, this 2 day
of March, 2009, at Harrodsburg, Mercer County, Kentucky.


James E. Belcher

DECLARATION OF NORMAN E. EDWARDS, M.D.

The following assertions of fact are true, are personally known to me, and are facts to which I am willing and competent to testify if called upon to do so:

1. I provide this declaration in response to an inquiry by the State Bar of California into Daniel Bartley's deposit and use of funds of his mother's that were deposited into his law office trust account.

2. I am Anna Bartley's primary treating family physician. I have known the Bartley family – Anna, Bob, and son Dan – for nearly five decades, since Lloyd Browning, M.D., and I opened our family medical practice in Louisa in the 1960's. My address is Riverview Family Practice, 203 South Water Street, Louisa, Kentucky. Anna worked as a nurse/medical assistant with our family medical practice for over two decades, and we have always cared much for her and her family. I have known Dan from when he was a teenager. When Dan, as a recent law graduate, practiced law in Louisa during the mid-1970's, he even provided some legal services to Lloyd and me in various legal matters. Just a few years ago, Lloyd, our wives, and I even visited Dan, his wife, and children at his residence in California.

3. In 2008, Anna's health took a turn for the worse. Between diabetes and heart disease, she was becoming weaker and weaker. At one point, in June, 2008, she was brought to the Three Rivers Community Hospital, suffering from congestive heart failure, exacerbated by complications from diabetes. Her condition was of such severity that she stopped breathing in the ER, and was pronounced dead by Dr. Mark Kingston, our ER physician on duty, only to start breathing again on her own seconds later. Dan, who was visiting his mom, was with her incident to such emergency hospitalization. I recall being in the ICU with Dan a couple days later, when we

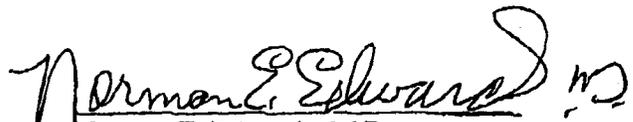
concluded that our efforts to remove Anna from the ventilator (life support) were simply not going to work, and that, absent surgical intervention, her prognosis was not good. Dan and I concluded his mom should be sent to her cardiologist, Dr. Richard Paulus, at King's Daughters Hospital, 30 miles north, in Ashland. At significant risk, given that Anna was suffering from pneumonia, Dr. Paulus installed two stents into the circumflex artery of Anna's heart. This entire process entailed hospitalization of Anna for an extended period, followed a recuperation period and physical rehabilitation for many months thereafter. During some of this time in 2008, Anna was unable to take care of her own affairs.

4. Dan has always tried to be there for his mom, to help her with her legal and medical affairs. During the period June through September, 2008, Dan on multiple occasions was here in Kentucky for extended periods, so he could be near Ann and manage her medical, legal, and financial affairs. He was almost continually at her side. This included paying her bills and the like.

5. Dan has been a good son and has been very close to his mom and his dad. His dad, Bob, passed away in June 2005, after years of suffering from Alzheimer's and diabetes. Dan frequently visited his father and helped make difficult decisions regarding his care. At one point, Dan even checked his dad out of the nursing home and took his father to Florida for three weeks, to get some much needed micro-surgery to alleviate his dad's severe pain from spinal stenosis. Dan closely managed all arrangements associated with Bob's nursing home residence for 2½ years and in connection with his passing. Bob, Ann, and Dan were always a very loving and very close family. Dan always served, and continues to serve, as his mom's attorney relative to her

legal affairs. Given that Anna for many months in 2008 was not able to take care of her financial, medical, legal, and other affairs, it was reasonable and necessary, from my standpoint as Anna's treating physician, that Dan had some of his mother's funds in his law office trust account, to pay out as directed by Anna.

Executed under penalty of perjury under the laws of the State of California, this 17th day of March, 2009, at Louisa, Lawrence County, Kentucky.


Norman E. Edwards, M.D.

DECLARATION OF C. MICHAEL STANSBURY

The following assertions of fact are true, are personally known to me, and are facts to which I am willing and competent to testify if called upon to do so:

1. I provide this declaration in response to an inquiry by the State Bar of California into Daniel Bartley's deposit and use of funds of his mother's that were deposited into his law office trust account.

2. I am a close friend of Dan Bartley and his mom Anna. I have known the Bartley family – Anna, Bob, and son Dan – for nearly five decades. We have been close friends ever since Dan and I attended high school together at Louisa High School, Louisa, Kentucky, in the early 1960's. We have been there for one another during many family crises. My office address is 2179 Carter Avenue, Ashland, Kentucky. I am a practicing orthodontist.

3. In 2008, when Anna for weeks on multiple occasions was hospitalized at Kings Daughters Hospital here in Ashland, I was in nearly daily contact with Dan. Dan at the time was staying at the hospital's "Hospitality House", for out-of-town visitors to family members of patients who are in the ICU, an experience with which my wife Cherie and I are very familiar, because we had gone through the same experience when Cherie's mother was in the same ICU right before she passed away and numerous family members were present from out of state.

4. Based upon my nearly daily contact with Dan, and based upon my having personally visited and observed Anna on life support in the ICU, I have personal knowledge that during the period June-September, 2008, Dan and Anna were going through an extremely serious and nearly all-consuming family crisis, such that Anna was incapacitated and totally unable to take care of her medical, legal, and personal affairs, and such that Dan was handling all medical and other

personal matters for his mom. At the same time, during much of this period, Dan was away from his California home, family and law practice, and was under enormous stress, simultaneously trying to handle family and professional responsibilities.

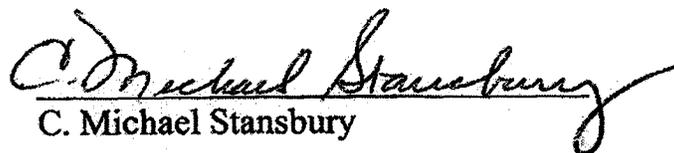
5. Given that Anna for much of 2008 was not able to take care of her affairs it was reasonable and necessary, from my standpoint as Anna's and Dan's close personal friend, that Dan had some of his mother's funds in his law office trust account, to pay out as directed by Anna.

6. Also, given my personal knowledge of what Dan was going through during this time period, it is completely understandable that, distracted as he was with his mother being near death so much of the time, that he could slip up relative to balancing his checkbook, such that a check could bounce. Dan at the time was juggling a lot of responsibilities, including daily decisions regarding his mom's care that could make the difference between life or death for her, including frantically trying to arrange for her post-release care, via consulting home health care services, via visiting nursing home facilities here in Ashland (about which Dan consulted my wife and me), and via interviewing and hiring sitter candidates.

7. Dan has been a good son and has always been very close to his mom and his dad. His dad, Bob, passed away in June 2005, after years of suffering from Alzheimer's and diabetes. Dan frequently visited his father and made the difficult decisions regarding Bob's care. Dan often consulted me about those difficult decisions associated with his father, because I had already gone through a similar experience with my father, who similarly suffered from Alzheimer's and, like Bob, ultimately had to spend his last days in a nursing home.

8. I know from my own personal knowledge that Dan has always been very protective of his parents and has tried as best he can to look out for their best legal, financial, and medical interests – not an easy task at all for him, given he is an only child and resides nearly 3000 miles away. I strongly vouch for Dan's good character, his honesty and his integrity.

Executed under penalty of perjury under the laws of the State of California, this 17 day of March, 2009, at Ashland, Boyd County, Kentucky.

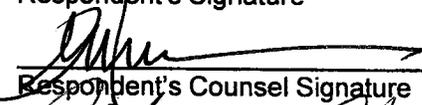
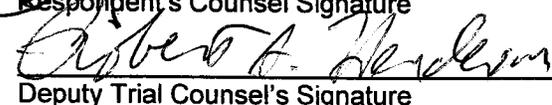

C. Michael Stansbury

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In the Matter of Daniel R. Bartley	Case number(s): 08-O-13244
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

<u>May 22, 2009</u> Date	 Respondent's Signature	Daniel R. Bartley Print Name
<u>June 3, 2009</u> Date	 Respondent's Counsel Signature	Russell S. Roeca Print Name
<u>June 5, 2009</u> Date	 Deputy Trial Counsel's Signature	Robert A. Henderson Print Name

(Do not write above this line.)

In the Matter Of Daniel R. Bartley	Case Number(s): 08-O-13224
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ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

June 18, 2009
Date

[Signature]
Judge of the State Bar Court
LUCY ARMEN LARIZ

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on June 19, 2009, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

**RUSSELL SAMUEL ROECA
ROECA HAAS HAGER LLP
351 CALIFORNIA ST. SUITE 900
SAN FRANCISCO, CA 94104**

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- by overnight mail at , California, addressed as follows:
- by fax transmission, at fax number . No error was reported by the fax machine that I used.
- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

ROBERT HENDERSON, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 19, 2009.



Bernadette C.O. Molina
Case Administrator
State Bar Court