

# MINUTES – December 11, 2008

THE WEST VIRGINIA BAR FOUNDATION  
IOLTA ADVISORY COMMITTEE MEETING  
STATE BAR CENTER-CHARLESTON  
December 11, 2008

The meeting of the West Virginia Bar Foundation's IOLTA Advisory Committee was called to order by Chairperson Scott Segal on December 11, 2008 at the State Bar Center in Charleston.

Members of the Committee in attendance were Steve Crislip, Steve Canterbury, Adrienne Worthy and Bob Baker. Also participating by telephone conference call was Jim Martin. Bar Foundation Executive Director Tom Tinder was also in attendance.

The first item on the agenda was a review of the Minutes of the last Committee meeting which was held on September 11, 2008. A motion was duly made, seconded and passed to approve the Minutes as presented.

Chairperson Segal requested a report on federal government funding for legal services programs. There were comments made that the funding will remain at the same level for the coming months. There may be some changes occurring with the new President and Congress after February, 2009.

Ms. Worthy then gave a report on the activities of Legal Aid of WV, including progress being made on the implementation of the ATLAS automated information and assistance program with \$480,000 in funding from a cy pres case allocation.

In the absence of Professor DiSalvo, there was no report regarding the activities of the special grantees. It was agreed that each special grantee would be requested to provide a report on their activities prior to each quarterly meeting of the Committee.

The Committee members reviewed the financial report for the IOLTA program. A comparison chart of several banks had been distributed which demonstrated an overall reduction in IOLTA funds from December, 2007 through November, 2008. The Committee reviewed a letter from Fifth Third Bank where funds from an estate were incorrectly placed in an IOLTA account from January, 2007 through September, 2008. The total amount was \$1,504.72 and it was correct. A motion was duly made, seconded and passed to refund the amount of \$1, 504.72 to Fifth Third Bank.

The Committee was informed that the \$150,000 in the Rainy Day Fund had been placed in a six month certificate of deposit with a maturity date at the end of May, 2009. There was a total amount of \$117, 465 available for consideration for distribution. After some discussion, a motion was duly made, seconded and passed to reduce the restricted amount in the Rainy Day Fund from \$137,500 (the Committee had previously set a goal of \$200,000 for that Fund) to \$125,000, set aside an additional amount of \$12,500 as the quarterly amount of the annual management fee which would increase that amount to \$25,000 in the Rainy Day Fund and distribute the amount of \$116,000 in accordance with the Supreme Court Order.

The next item for discussion related to a Comparability Rule for the IOLTA program. The Committee members were informed that the proposed Rule had been presented to the Supreme Court and the Court had placed it out for public comment with a deadline date of December 15, 2008. As of this date, there had been no comments received by the Clerk's office; however, there are reports that comments will be sent in. After further discussion, a motion was duly made, seconded and passed that a letter on behalf the Committee in support of the Rule proposal be presented to the Court prior to the deadline.

The Committee members then talked about the composition of the IOLTA Advisory Committee. After some comments were made, a motion was duly made and seconded to approve changes in the composition of the Committee. Then, an amendment was duly made, seconded and passed that a representative from Mountain State Justice be added to the Committee. The main motion, as amended, was approved. Another motion was duly made, seconded and passed that Roger Osborne, an accountant in Charleston, be appointed as the lay member of the Committee. Chairperson Segal abstained from voting on that motion.

Under the topic of Other Business, the Committee members talked about Cy Pres proceedings and a recent Rule from Massachusetts relating to class action suits and residual funds being distributed to non-profit organizations and the IOLTA program. It was agreed that this matter would be discussed further at the next Committee meeting.

Chairperson Segal announced that the next meeting of the Committee would be on March 12, 2009 at 11:00 AM at the State Bar Center in Charleston.

There being no further business to transact, the meeting was adjourned.