

MINUTES – September 11, 2008

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

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

Members of the Committee in attendance were Steve Crislip and Jim Martin. Also participating by telephone conference call was Professor Charles DiSalvo. 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 June 12, 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 budget process was continuing to occur on funding at the same level as the current year.

Mr. Martin then gave a report on the activities of Legal Aid of WV, including the fact that some staff lawyers are leaving the organization and cited Randy Minor, who had been elected as a Family Court Judge. He said that Mountain State Justice had handled some predatory loan cases.

Professor DiSalvo discussed the work of the special grantees. CASA has 249 active volunteers in the program who are serving about 800 children. ChildLaw Services is serving more than 400 children. Senior Legal Aid reports that debt and consumer cases are increasing and that it is also working on Medicare program problems. The Appalachian Center is recruiting new students and working on transition matters with Randy Minor leaving the Director position. The Public Interest program is considering post graduate fellow positions.

The Committee members reviewed the financial report for the IOLTA program. A comparison chart of five large banks had been distributed which clearly demonstrated the reduction in IOLTA funds from July, 2007 to July, 2008. There was an amount of \$268,116 available for consideration for distribution. After some discussion, a motion was duly made, seconded and passed to leave the Rainy Day Fund at its current amount of \$137,500 (the Committee had previously set a goal of \$200,000 for that Fund), set aside \$12,500 as the quarterly amount of the annual management fee, establish money market fund accounts for the Rainy Day Fund and the annual management fee and distribute the remaining \$118,000 in accordance with the Supreme Court Order.

The next item for discussion related to a Comparability Rule for the IOLTA program. The Committee members reviewed the extensive report that had been received from the consulting group, The Resource. It provided information on five large banks handling IOLTA accounts in WV and the positive impact of a comparability rule similar to what is in effect in 22 states. After some discussion, a motion was duly made, seconded and passed to set up a committee of two

IOLTA Advisory Committee members and two Bar Foundation Board of Directors members to draft a comparability rule for consideration, including a safe harbor provision, sent for final review to the Committee and the Board and then provided to the Supreme Court for its consideration and action with a proposed effective date of January 1, 2009. It was agreed that Chairperson Segal and Professor DiSalvo would be the representatives from this committee. After further comments, a motion was duly made, seconded and passed to request up to \$2,000 from the Board for further services by the consultant, if needed.

The Committee members also discussed the composition of the IOLTA Advisory Committee. Roger Osborne, an accountant in Charleston, was suggested as a public member of the Committee. 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 December 11, 2008 at 11:00 AM at the State Bar Center in Charleston.

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