

# MINUTES – December 10, 2009

THE WEST VIRGINIA BAR FOUNDATION  
IOLTA ADVISORY COMMITTEE MEETING  
STATE BAR CENTER-CHARLESTON

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## MINUTES

The meeting of the West Virginia Bar Foundation's IOLTA Advisory Committee was called to order by Chairperson Tom Flaherty on December 10, 2009, at the State Bar Center in Charleston.

Members of the Committee in attendance were Ken Greear, Steve Canterbury, Steve Crislip, Jim Martin and Bren Pomponio. Also in attendance were Jane Moran and Dave McMahan from Mountain State Justice, as well as Bob Baker. Participating by telephone conference call was Professor Charles DiSalvo. Bar Foundation Executive Director Tom Tinder were 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 8, 2009. A motion was duly made, seconded and passed to approve the Minutes as presented.

Chairperson Flaherty requested a report on federal government funding for legal services programs. Mr. Martin stated that the Congressional Conference Committee proposes funding for the Legal Services Corporation at an increase of \$30 million to a total of \$420 million and the elimination of some attorney fee restrictions on legal services programs operations. If passed, it would provide about \$250,000 in additional funding for West Virginia.

The next item on the agenda was a report from the legal services programs. Mr. Martin stated that Legal Aid of WV had stable funding, had handled 6,000 cases a year for the past few years with about 1,500 additional cases in 2009 because of the automated telephone system and that it had raised about \$200,000 in private fund raising on an annual basis. Mr. Pomponio, Ms. Moran and Mr. McMahan from Mountain State Justice informed the Committee about the regional office in Clarksburg and information was distributed on revenues and expenses and its budget through 2014.

Chairperson Flaherty requested that Professor DiSalvo provide a report on the activities of the Special Grantees. He said that Senior Legal Aid was helping senior citizens with housing, that ChildLaw Services has gone from 510 to 604 cases in past six months and has hired a third lawyer, that CASA has new programs operating in Mineral, Ohio and Marshall counties, held a successful statewide conference in September and had 210 volunteers serving 1,200 children, that the Public Interest Advocates program would have 15-20 student summer fellowships and that the Appalachian Center would be matching law students with pro bono lawyers and beginning an externship program in Spring, 2010.

The Committee members reviewed the financial report for the IOLTA program. A chart had been distributed with IOLTA receipts to compare from January-May, 2009 with July-November,

2009. It appears that the IOLTA funding had stabilized. Comments were also made about an extraordinary increase attributed to the resolution of the \$400 million Tawney case.

There was a total amount of \$145,000 available for consideration for distribution. After some discussion, a motion was duly made, seconded and passed to set aside \$12,500 as another quarter of the annual administrative fee of \$50,000 to the WV Bar Foundation (the total set aside is \$25,000), increase the amount in the Rainy Day Fund by \$5,000 to a total of \$87,655 (the Committee had previously set a goal of \$200,000 for that Fund) and distribute the amount of \$115,000, in accordance with the Supreme Court Order.

In addition, a one page information sheet was distributed which demonstrated that in the 18 years of the existence of the IOLTA program, \$14,375,690 had been received and \$900,000 paid in administrative fees, which is a 6.2% cost of administration, that the average IOLTA Executive Directors salary was \$103,898 in 2008 and the WV IOLTA administrative fee of \$50,000 was the second lowest in the nation with 12 states having lesser amounts of annual IOLTA receipts than WV, that WV had had a decrease of less than 30% in IOLTA receipts in the past 2 years while the surrounding states of Virginia (80%), Maryland (70%) and Washington, DC (80%) had much larger decreases and that the WV Bar Foundation had provided grants of more than \$49,000 to IOLTA grantees and for the IOLTA Comparability Rule in the past 17 months.

The next item on the agenda was a review of a proposed Allocations Policy for the IOLTA Program. The draft document provided for an annual report from the grantees by November each year, review and consideration by the IOLTA Advisory Committee and the Bar Foundation Board of Directors at quarterly meetings in December and March with a formal report to the Supreme Court by April 1. There was a great deal of discussion. Then, a motion was duly made and seconded to amend the draft policy by removing the last five words. Then, a motion was made to change the time frames, but it died for the lack of a second. Finally, the Allocations Policy, as amended, was approved.

Chairperson Flaherty requested a report on the fiduciary responsibilities of the Committee members. The Bar Foundation has a \$1 million Directors and Officers liability insurance policy that covers the IOLTA Advisory Committee.

The next item for discussion related to the Comparability Rule for the IOLTA program. Mr. Tinder reported that the IOLTA2 database, used by 24 state IOLTA programs, had been purchased and downloaded. There will be a significant amount of effort to place the information on 84 IOLTA banks and approximately 5,000 lawyers on that database.

Chairperson Flaherty announced that the future meetings of the Committee would be at 11:00 AM at the State Bar Center in Charleston on the following dates:

Thursday, March 11, 2010

Thursday, June 10, 2010

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