

# MINUTES – September 8, 2009

THE WEST VIRGINIA BAR FOUNDATION  
IOLTA ADVISORY COMMITTEE MEETING  
STATE BAR CENTER-CHARLESTON  
September 8, 2009

## MINUTES

The meeting of the West Virginia Bar Foundation's IOLTA Advisory Committee was called to order by Chairperson Tom Flaherty on September 8, 2009, at the State Bar Center in Charleston.

Members of the Committee in attendance were Roger Osborne, Ken Greear, Steve Canterbury, Steve Crislip, Jim Martin and Bren Pomponio from Mountain State Justice. Participating by telephone conference call was Professor Charles DiSalvo. Bob Baker and Bar Foundation Executive Director Tom Tinder were also in attendance.

Chairperson Flaherty specifically introduced Mr. Greear, who was attending his first meeting. He had been selected by the WV Bankers Association to be its representative on the Committee.

The first item on the agenda was a review of the Minutes of the last Committee meeting which was held on June 11, 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 proposed funding for the Legal Services Corporation includes an increase of \$40 million in a compromise bill in conference committee in Congress and consideration is being given to eliminating some restrictions on legal services programs operations. If passed, it would provide about \$300,000 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 received a cut in funding from the WV State Bar from \$100,000 to \$35,000 and that it had added two new lawyers. Mr. Pomponio informed the Committee that Mountain State Justice had opened a regional office in Clarksburg.

Chairperson Flaherty requested that Professor DiSalvo provide a report on the activities of the Special Grantees. He said that Senior Legal Aid had updated an important manual for its clients, ChildLaw Services has 500 cases and has hired a third lawyer, CASA has a program operating in Kanawha County, will have a program soon in Mineral County and recently held its statewide conference and the Public Interest Advocates program and the Appalachian Center at the WVU College of Law have jointly hired a new executive director.

The Committee members reviewed the financial report for the IOLTA program. A chart had been distributed with IOLTA receipts for the past three years, a listing of the top nine banks which provide more than 70% of the total IOLTA funds and IOLTA collection

trends for the past year which showed a recent small upturn after months of decreasing funds. In addition, it was mentioned that the unlimited FDIC insurance coverage on IOLTA accounts had been continued through June 30, 2010 from December 31, 2009.

There was a total amount of \$109,000 available for consideration for distribution. After some discussion, a motion was duly made, seconded and passed to set aside \$12,500 as a quarter of the annual administrative fee of \$50,000 to the WV Bar Foundation, continue the amount in the Rainy Day Fund of \$82,655 (the Committee had previously set a goal of \$200,000 for that Fund) and distribute the amount of \$96,500, in accordance with the Supreme Court Order.

The next item for discussion related to the Comparability Rule for the IOLTA program. With the Supreme Court's Order implementing the Rule going into effect on April 15, 2009, Compliance forms had been sent to the 84 WV banks with IOLTA accounts, with a return date of July 15, 2009, and to the 4,700 active practicing lawyers in WV with a due date of July 31, 2009. Thousands of forms had been returned and they would be placed in a database for utilization.

Under the topic of Other Business, the Committee members had an extended discussion regarding the allocations to grantees, annual reporting guidelines and multi-year allocations. It was agreed that Mr. Tinder would put together a draft plan for consideration at the next Committee meeting.

The Committee members were provided with the excellent Supreme Court video which had been recently released. It had been shown on public television and would be distributed to all WV schools. There were also comments made about the outstanding article on the law student public interest programs at the WVU College of Law that had been authored by Professor DiSalvo and placed in the Dialogue publication that is sent to thousands of judges and lawyers around the world.

In addition, the Committee agreed to discuss the definite fiduciary responsibilities of the Committee members at the next Committee meeting.

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, December 10, 2009

Thursday, March 11, 2010

Thursday, June 10, 2010

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