

# MINUTES – March 17, 2011

THE WEST VIRGINIA STATE BAR  
IOLTA ADVISORY COMMITTEE MEETING  
WEST VIRGINIA SUPREME COURT OF APPEALS  
MARCH 17, 2011

## MINUTES

1. Call to Order - A meeting of the IOLTA Advisory Committee of The West Virginia State Bar was called to order by Chairperson Thomas V. Flaherty on March 17, 2011, in Room E155 of The State Capitol in Charleston. Committee members present for the meeting were Ken Greear, Steven Crislip, Steven Canterbury, James Martin and Jackie Gonzales on behalf of Mountain State Justice. Board of Governors' Audit Committee Chairperson Anne Werum Lambright, State Bar IT Coordinator Don Ryan, State Bar Executive Director Anita Casey and Andrea Greene were also in attendance.
2. Approval of Minutes of December 14, 2010, IOLTA Advisory Committee Meeting - A motion was duly made, seconded and passed unanimously approving, as drafted, the IOLTA Advisory Committee Meeting Minutes of December 14, 2010.
3. Video Presentation on IOLTA2 Database - Executive Director Casey gave a brief history of the transfer of IOLTA documents from the West Virginia Bar Foundation to The West Virginia State Bar. She discussed the work she and Mr. Ryan did in reviewing those documents to determine the nature and extent of the information which had been transferred. She explained the process she and Mr. Ryan had gone through to procure the rights to use the IOLTA 2 database and the preliminary training they had received on the use of the same. Mr. Ryan then detailed the information which can be obtained through the IOLTA 2 program by showing a series of screen shots from the program. Mr. Ryan also explained the manner in which information was input and could be extracted from the data base. Mr. Ryan and Ms. Greene responded to a number of questions from the IOLTA Advisory Committee members regarding the program. Thereafter, a discussion was had regarding the need for update of the IOLTA data base. Committee members were advised that a request would be made, via the Bar Blast, for all active attorneys, both in-state and out-of-state, to complete current compliance forms. It was the suggestion of the Committee that an announcement also be placed in The West Virginia Lawyer confirming that the completion of current compliance forms was mandatory. Mr. Canterbury agreed to advise the Justices of the Supreme Court of the need for updated compliance forms and to seek their assistance, as needed, in helping enforce the compliance requirement.
4. Financial Report - Ms. Lambright reported that the IOLTA reserve account, as of March 15, 2011, contained the sum of \$88,869.28 and that the operating account, as of that same date, contained the sum of \$84,345.32. The Advisory Committee was advised that The State Bar had not yet taken an administrative fee from the IOLTA accounts but had booked these amounts. The Committee directed that a figure of \$7,500 again be booked from the reserve account for the

administrative fee. Thereafter, a discussion was had on the declining amount of monies being paid into client trust accounts and, therefore, the declining amount of interest being earned, especially with the low rates of interest currently being paid. Based upon the declining monies available for distribution, a motion was duly made and seconded to allocate the sum of \$92,000 for distribution to the grantees of the IOLTA program. Executive Director Casey was directed to transfer any sums needed from the Reserve Account into the Operating Account to bring that account to the sum of \$92,000. Upon vote, the motion passed unanimously. Ms. Lambright advised she would take the recommendation of the Advisory Committee to The State Bar's Executive Committee for vote and subsequently would submit that vote to the entire State Bar Board of Governors for confirmation at its next meeting of April 14, 2011.

5. Report From Legal Services Programs - Mr. Martin reported on the status of LSC funding and the anticipated decline in the same. He advised that the West Virginia Legislature had passed a bill increasing circuit court filing fees and imposing a new fee for Supreme Court filings. The Supreme Court filing fee specifically excludes criminal and workers compensation cases. He also reported that the increased filing fee would go to domestic violence programs and was specifically earmarked for lawyer services. No such restrictions apply to the new Supreme Court filing fee. Ms. Gonzales had no further information to report on behalf of Mountain State Justice.

6. Report From Special Grantees -

ChildLaw Services of Mercer County - no report

WV CASA Network- no report

West Virginia Senior Legal Aid - no report

Appalachian Center for Law and Public Service - no report

West Virginia Fund for Law in the Public Interest - no report

7. IOLTA Information on Foundation Website - Chairperson Flaherty discussed the response received from the Bar Foundation to his prior request to eliminate information on the Foundation's website related to the IOLTA program. A discussion was had on the confusion which could be created by both The State Bar and the Foundation having IOLTA information posted on their respective websites. Thereafter, Chairperson Flaherty agreed to request that the Foundation take all forms related to IOLTA off the Foundation's website.

8. Old Business - Mr. Canterbury reported on the Supreme Court's review of the issue of allowing for the transfer of monies from client trust accounts, which monies could not be accounted for from any specific client, into the IOLTA Reserve Account. Following discussion, it was the suggestion of the Committee that the policy for allowing such transfer be formalized and incorporated into the Supreme Court's Rules regarding IOLTA. Mr. Canterbury advised he would work with the Supreme Court on drafting the proposed rules revisions and would submit

the same to the Advisory Committee for review before the Court implemented the same. Ms. Lambright agreed to advise the Office of Disciplinary Counsel of the decision. Executive Director Casey was directed to contact Bob Steptoe to advise of the decision, as the discussions regarding the transfer of these types of monies began subsequent to an inquiry from Mr. Steptoe who was administering matters related to the estate of his deceased brother, James Steptoe.

9. Other Business - The Committee confirmed its prior scheduling of the next meeting of the Committee for June 16, 2011, at 11:00 a.m. at The State Bar Center.

10. Adjournment - There being no further business, the meeting was adjourned by acclamation.