

MINUTES – December 14, 2010

THE WEST VIRGINIA BAR FOUNDATION
IOLTA ADVISORY COMMITTEE MEETING
STATE BAR CENTER-CHARLESTON
December 14, 2010

MINUTES

1. Call to Order - The meeting of the IOLTA Advisory Committee of The West Virginia State Bar was called to order by Chairperson Thomas V. Flaherty on December 14, 2010 at The State Bar Center in Charleston. Committee members present for the meeting were Roger Osborne, Steven Crislip, James P. Martin, Steven Canterbury and Bren Pomponio. Charles DiSalvo participated in the meeting by conference call. Board of Governors' Finance Chair Anne Werum Lambright, Executive Director Anita Casey and Bar staff member Andrea Greene was also in attendance.
2. Approval of Minutes of September 9, 2010 IOLTA Advisory Committee Meeting - A motion was duly made, seconded and passed unanimously approving the IOLTA Advisory Committee Meeting Minutes of September 9, 2010.
3. Update on database and data input - Ms. Casey introduced Andrea Greene, a temporary employee of the Bar, who is doing data input in the IOLTA2 database. Ms. Greene reported on the nature of the data she had been able to obtain and input from the paperwork received from the Foundation when the transfer of administrative responsibilities was made. She reported on her updates of the data, based upon receipt of bank and attorney reports since the transfer, and contacts she was making with banks for current account, address and other contact information. Ms. Greene advised that she and Mr. Ryan were working with Charlie Justice and Kelly Thayer to transfer attorney information from the State Bar's FoxPro database into the IOLTA2 database. After the transfer of that information, Ms. Green advised that the next step would be to match attorney information with bank account information. Once that process was completed, Ms. Casey advised of her intent to request that all attorneys complete a Notice of Compliance form which will be matched with information in the database to insure that all information in the new database is current. Ms. Casey also advised of her intent to personally contact those attorneys who did not complete a Notice of Compliance to request the completion of a current form to insure that our West Virginia licensed attorneys are acting in compliance with the requirements of Rule 1.15.
4. Financial Report - Ms. Casey reported that the Bar Foundation had closed its IOLTA account with Chase Bank and that the monies contained in that account had been deposited in The State Bar's IOLTA operating account. Mr. Flaherty requested that Ms. Casey follow up with the bank to which an IOLTA payment had been returned, when the Chase account was closed, and arrange for those monies to be deposited in the BB&T account. Ms. Lambright then discussed the three financial statements prepared by Ms. Blessing. Due to confusion which members of the

Committee felt was caused by the manner in which the financials were being reported, it was the suggestion of the Committee that the financials be standardized and that the standardized accounting procedures, which The State Bar had adopted within the past year, be the same procedures used for future reporting on the IOLTA accounts. Ms. Lambright advised that she would coordinate the change with Ms. Blessing. A motion to distribute \$100,000 to the legal service programs which are designated as recipients of the IOLTA funds was made and seconded. After discussion of the manner in which transfer of monies from the reserve account to the operation account should be made, and the Committee directed that the liability of the fund to The State Bar for administrative fees be booked as a liability against the reserve account, the motion passed by a unanimous vote. Ms. Lambright and Ms. Casey were requested to present the recommendation of the Committee to The State Bar's Executive Committee for approval, so distributions to the participating organizations could be made before the end of the calendar year.

5. Report From Legal Services Programs - Mr. Martin advised there was no report from the Legal Services Program as there was no information currently available on the status of Legal Services Corporation funding.

6. Report From Special Grantees - Professor DiSalvo provided reports from the following Special Grantees:

ChildLaw Services of Mercer County - Forty-nine cases were opened during the past quarter and represented work done for eighty-six children. A recent CLE and fundraiser were both successfully completed.

WV CASA Network- For the period of July 1 to October 31, 2010, 1,055 children were served by 280 active volunteers.

West Virginia Senior Legal Aid - the new staff attorney is working out well - the pamphlet/book entitled "Legal Questions Frequently Asked by West Virginia Seniors" (originally written by Bren Pomponio) was recently updated and is now available on Amazon/Kindle for \$5.00 - several elder law workshops have been conducted.

Appalachian Center for Law and Public Service - a pro bono group of thirty students has been created to assist the Governor's Office in compiling and analyzing data from the Upper Big Branch Mine disaster.

West Virginia Fund for Law in the Public Interest - fifteen summer fellowships and one full-time position have been/will be created as a result of on-going fund raising efforts - an unusually large number of tax credits were made available to the Fund this year, therefore, tax credits are still available.

7. Other Business - Chairperson Flaherty discussed a letter, received earlier in the year, related to the disbursement of funds in a deceased lawyer's trust account where efforts to determine who the funds should be distributed to had been unsuccessful. Mr. Martin reported on contacts he had made with the Office of Disciplinary Counsel regarding the same issue and advised of the ODC's

opinion that the funds did not have to be turned over to the State but could be deposited in the State Bar's IOLTA account. Mr. Canterbury suggested that the issue be presented to The Supreme Court to both notify the Court of the discussion and the preliminary opinion and to obtain a directive from the Court on the issues. Thereafter, a motion was made to request the Supreme Court to clarify the question of whether unclaimed and unidentifiable funds in a lawyer's trust account can be placed in The State Bar's IOLTA reserve account. The specific questions to be presented to the Court include the following: 1) how long The State Bar must hold the monies as a contingent reserve and 2) how long the monies must be held in the lawyer's trust account until they can be turned over to The State Bar for deposit in The State Bar's IOLTA reserve account. Following a proper second, upon vote, the motion passed with Mr. Canterbury abstaining from the vote.

8. Next Committee Meetings:

March 17, 2011 - 11:00 a.m. - State Capitol - East Wing - Room E155

June 16, 2011 - 11:00 a.m. - State Bar Center

September 15, 2011 - 11:00 a.m. - State Bar Center

December 15, 2011 - 11:00 a.m. - State Bar Center

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