

THE WEST VIRGINIA STATE BAR
IOLTA ADVISORY COMMITTEE MEETING
STATE BAR CENTER - CHARLESTON
DECEMBER 15, 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 December 15, 2011, at The State Bar Center in Charleston. Committee members present for the meeting were Chairperson Flaherty, Kenneth L. Greear, Anne Werum Lambright and Steven D. Canterbury. Adrienne Worthy participated by phone. Sue Racer-Troy, Robert Baker, and State Bar Executive Director Anita Casey were also in attendance.

Items appear in order as on the Agenda and not necessarily in the order in which they were presented.

2. Approval of Minutes of September 15, 2011, IOLTA Advisory Committee Meeting -

Mr. Baker requested a revision to item number 7 of the minutes to reflect that he would attempt to determine how the initial seats on the IOLTA Advisory Committee were determined. He suggested that the Chair of the Access to Justice Commission and, possibly, the Chair of the Access to Justice Foundation, be members of the IOLTA Advisory Committee. Thereafter, a motion was made to accept the Minutes, as amended. Following a proper second, the motion passed by a unanimous vote.

3. Financial Report -

Ms. Racer Troy advised that, due to the recent move of the State Bar to a new State Bar Center, she had been unable to provide copies of current financials to the IOLTA Advisory Committee Board members. She agreed to provide those financials, by email, at a later date. Ms. Racer-Troy provided copies of the current bank statements for the three IOLTA accounts and explained the opening of the third account to allow for deposit of an unlimited number of IOLTA remittance checks without incurring service fees on the originally opened Operating Account. Ms. Lambright reported that, in connection with the move from the old Bar Center to its new location, several uncashed checks, some in unopened envelopes, had been found in the office previously occupied by Connie Blessing. The Committee discussed its concern with Ms. Blessing's failure to open and deposit IOLTA checks. Particular concern was addressed with a check from SunTrust Bank in an amount in excess of \$3,000. Ms. Racer Troy was directed to contact any bank(s) for whom un-negotiated checks were located and determine if the bank(s) would honor those checks. After determining the amount of money in the three IOLTA accounts, a motion was made to distribute the monies in the two Operating Accounts and the

interest from the Reserve Account to the grantees designated by the Supreme Court. The motion included a directive that the quarterly administrative fee of \$7,500 for The State Bar be accrued from the reserve account. Following a discussion on the significant decrease in funding, on a nationwide basis, to legal aid programs and the impact that significantly low interest rates were having on monies available to legal service organizations, the motion received a proper second and, upon vote, passed unanimously.

4. Report From Legal Services Programs -

Ms. Worthy discussed the decrease in LSC funding for 2012 and the anticipated additional decrease in 2013. She reported on the Access to Justice forums and her hope that the Access to Justice Foundation would bring additional funds for legal service programs.

5. Report From Special Grantees -

A motion was made to accept the written report, submitted by Professor Charles DiSalvo, from the Special Grantee organizations, as a part of the record. The report, set out verbatim below, received a proper second and, upon a unanimous vote, was made a part of the record herein.

WV Senior Legal Aid – Cathy McConnell:

This quarter in addition to serving 163 clients in 48 counties we delivered trainings to aging service professionals and seniors in financial exploitation prevention, legal issues for seniors related to Marcellus drilling, mental capacity and legal decision-making devices, elderlaw myths debunked, and unique legal issues of LGBT seniors at events in Beckley, Kingwood, Harrisville, Charleston, Bridgeport, Flatwoods, and Morgantown. With the help of our summer PIA fellow we developed an online survey designed to gather data about effective LGBT senior outreach for legal services and launched it at the Fairness WV conference. We also helped organize people in the disability advocacy community to make presentations and submit written comments for the WV Access to Justice Commission public hearings. Cat guest taught an elderlaw class at the law school on long-term Medicaid. We had a law student extern, Lindsay Gainer, this semester who just finished up with us working on casework with Melanie, updating a legal resource for victims of abuse and exploitation in later life, and developing client materials about taxpayer rights related to property tax assessment.

Cat and Melanie Hoover, our staff attorney, attended the National Law and Aging Institute and the annual meeting of the National Association of Senior Legal Hotlines in Boston in November. We also joined a state collective working on obtaining available HUD funds for rental assistance for affordable accessible housing for older people and people with disabilities.

Center for Law and Public Service – Megan Annitto:

We've continued with our Street Law program and students have provided pro bono assistance

to the Supreme Court's Adjudicated Juvenile Rehabilitation Commission by undergoing training and interviewing juveniles in detention at the WV Industrial Home for Youth (the state's secure juvenile detention facility).

ChildLaw Services – Shannon Atwell:

In 2011, ChildLaw received 47 new cases, representing 197 children. The total caseload for the year was over 200 cases (450 children). We still have two full-time staff attorneys. Our Justice Assistance Grant was cut 60% for the 2011-2011 fiscal year (from \$80k to \$32k). Our operating budget is just under \$330,000 per year.

WV Fund for Law in the Public Interest – C. DiSalvo:

The Board of the Fund committed to funding another post-graduate fellow for a one year position in addition to committing to the usual group of 15 to 20 summer fellows. The Fund's annual direct mail campaign to WV lawyers is underway. The Fund can offer 50% tax credits to donors of \$500 or more.

6. Old Business -

A. A report on the presentations to Bankers Association and article being done for Bankers Association Magazine -

Executive Director Casey reported on the meeting she, Justice Workman, Steven Canterbury and Professor Charles DiSalvo had had with the Executive Committee of the Bankers Association. She advised of the Association's offer for a meeting of representatives of the IOLTA Advisory Committee with the Board of Directors of the Association on January 17, 2012.

She also advised of the Associations' offer for the IOLTA Advisory Committee to submit an article for an upcoming edition of the Bankers Association's magazine. She reported that Professor DiSalvo had agreed to appear for the January 17, meeting and that Justice Workman had requested Jennifer Bundy to prepare an article for the Association's publication. Mr. Greear discussed his thoughts on making a request, at that meeting, for an increase in interest rates on IOLTA accounts. Executive Director Casey was directed to make contact with the Court to determine if one of the Justices would appear at the January 17 meeting.

B. Report on BB&T matter related to McCune account -

Chairperson Flaherty reported on the status of the BB&T matter involving Richard McCune's IOLTA account. A motion was made to recommend that the President of the State Bar execute the agreement prepared by BB&T. That motion received a proper second and, upon vote, passed unanimously. Executive Director Casey was directed to make any contacts needed to have the agreement fully executed and the monies received from BB&T, upon receipt, deposited in an IOLTA Operating Account.

C. Report on status of amendments to Rule 1.15 -

Executive Director Casey provided an update on the status of the proposed amendment to Rule 1.15. She reported that the amendment would be reviewed by the Lawyer Disciplinary Board at its January meeting and that President Nickerson, who would be attending that meeting, had been directed, on behalf of the State Bar Board of Governors, to agree to any appropriate changes to the amendment approved by the Board of Governors, to insure that the amendment was finalized and sent to the Supreme Court for approval as soon as possible.

7. New Business -

There was no New Business.

8. Next Meeting -

The following meeting dates, all beginning at 11:00 a.m. at the State Bar Center, were approved for 2012:

March 22

June 21

September 20

December 13

9. Adjournment -

A motion to adjourn was accepted by acclamation.

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