

THE WEST VIRGINIA STATE BAR
IOLTA ADVISORY COMMITTEE
STATE BAR CENTER - CHARLESTON
JUNE 25, 2013 - 11:00 A.M.

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 June 25, 2013, at The State Bar Center in Charleston. Committee members appearing in person were Sue Racer Troy for Steven Canterbury, James Martin, Chairperson Flaherty and Anne Werum Lambright. Charles DiSalvo appeared by phone. Also appearing, for all or portions of the meeting, were Jessica Rhodes, State Bar Finance Director Sarah Harper-Jones, IOLTA Clerk Miranda Vance and State Bar Executive Director Anita Casey. Executive Director Casey served as secretary for the meeting.

Minutes are in the order the items appeared on the Agenda, not necessarily in the order in which the items were presented.

2. Review of Minutes of Last Committee Meeting – March 20, 2013

A motion was made to accept the Minutes of the March 20, 2013, IOLTA Advisory Committee Meeting, as presented. Following a proper second, the motion passed by a unanimous vote.

3. Report from Legal Service Programs

Mr. Martin reported that almost \$700,000 in Legal Services Corporation funding will be lost over the next two years. On a state level, however, provisions included on a funding Bill instituted a corporate filing fee. The fees collected will be allocated to legal service providers. The Bill becomes effective July 1, 2013. Disbursements of accumulated funds will begin in July of 2014.

4. Report from Special Grantees

Professor DiSalvo reported on behalf of each of the IOLTA special grantees:

A. West Virginia CASA Network

CASA's statewide executive director resigned in April. During the search for a new director, Rhonda Stubbs, director of CASA for Brooke and Hancock Counties, is attending to some of

the statewide responsibilities. The statewide CASA no longer receives an annual allotment from the federal government. It is, therefore, without the principal support it had depended upon for its operation. Funding is now through competitive grants. Unfortunately, the Hampshire and Hardy County CASA Programs have been shut down. The Kanawha County project was absorbed by the Western Regional CASA. However, it was reported that new board members, who have a renewed energy for the program, have been added and it is hoped that the statewide program will re-group and be back and operating more efficiently.

B. West Virginia Senior Legal Aid, Inc.

Senior Legal Aid has put on several workshops related to the new power of attorney laws and is preparing a brochure on the new act. They have partnered with the FTC to provide CLE programs on fighting schemes and scams. They are also working with the Federal White Collar Crime Center and on the Older Americans Act. The group is coordinating several activities with Legal Aid of West Virginia.

C. ChildLaw Services of Mercer County

The first quarter of 2013 was a difficult and challenging quarter for ChildLaw. An unexpected end of year deficit, plus a turnover of the Executive Director, Legal Director and Financial Assistant left remaining staff scrambling to ensure the same high quality services are being delivered to clients as they were 12 years ago when ChildLaw opened its doors, while also figuring out how to do more with Less. Even though money is tight, the needs are even greater. Already this year, ChildLaw has opened 65 cases representing more than a quarter of the cases that were opened last year. They have also held two fundraising events: a concert and a 5K run, body safety classes in the area school, started aGirls on the Run program at Bluefield Middle School, conducted 9 session of teen court, and closed an amazing 159 cases by court decision. Although challenging and difficult, the first quarter has also been regarding as several of the kids aged out of the system during this time much better equipped to tackle the world as adults. Several of the kids returned to parents who are better able to care for them in neglect-free homes and some of the kids found permanent homes with families equipped to love and care for them in a stable, health home.

D. Appalachian Center for Law and Public Service

Jennifer Powell has been on the job for a few weeks and has been doing a very good job. She has been working on some collaborative projects which will result in seven to ten new pro bono projects for students at the West Virginia University College of Law in the fall of 2013. She has been working on a handbook for pro bono students. The last week of October, the WVU College of Law will sponsor a pro bono summit in cooperation with Legal Aid of West Virginia and the Access to Justice Commission.

E. West Virginia Fund for Law in the Public Interest, Inc.

Sixteen fellows are working throughout West Virginia with many of the IOLTA sponsored organizations. Michael Nissan-Sabat, a recent graduate of the WVU College of Law, was

given a one-year post graduate fellowship to work with Mountain State Justice in that organization's Clarksburg office.

5. Financial Report

Rather than close one of the IOLTA accounts, Ms. Harper-Jones reported that BB&T had agreed to waive service charges on that account. Chairperson Flaherty requested that Ms. Harper-Jones contact the bank to determine if the bank will reimburse The Bar for those services charges previous assessed. She reported that, contrary to the suggestion made in the audit, the State Bar's IT Specialist was not added to the IOLTA account. This decision was made when it was determined that any administrator on the account would have access to change IOLTA banking preferences at will. She reported that cash on hand for all IOLTA accounts sat at \$113,086.65. Of that amount, \$30,000 was restricted for payment to The State Bar for services rendered in administering the program. This left \$83,086.65 for distribution. In order to insure that some money was left in the reserve account, a motion was made to distribute \$70,000 to the IOLTA grantees. The motion received a proper second and, following discussion, passed by a unanimous vote. Thereafter, a motion was made to distribute the \$30,000 administrative fee to The West Virginia State Bar. That motion also received a proper second and passed by a unanimous vote.

6. Old Business

A. Jessica Rhodes, of the Office of Disciplinary Counsel, reported on a recent, proposed amendment to Rule 1.15. The amendment, proposed by the Lawyer Disciplinary Board, would require banks to notify the Office of Disciplinary Counsel of any overdraft on an IOLTA account. Failure to so notify would subject the bank to risk of losing its qualified status with the State Bar. Discussion ensued on how attorneys, who had accounts at banks which lost their qualified status, would be directed to pull those accounts. Discussion was also had regarding the status of several prior amendments to the Rule which had been presented to the Supreme Court for review and enactment, following approved by both the Lawyer Disciplinary Board and the State Bar Board of Governors. Mr. Martin agreed to discuss the status of these amendments with Ms. Rhodes and report back at the Committee's next meeting.

B. Title Companies Having IOLTA Accounts

Ms. Vance and Executive Director Casey advise Committee members that a number of accounts, issued in the names of title companies and realty companies, had been located as bank information for IOLTA accounts was being organized and updated. Executive Director Casey discussed the provisions of West Virginia Code, section 30-40-18 which required realty companies to establish trust accounts but which made no provision for distribution of the interest earned on those accounts. Ms. Werum Lambright agreed to speak with Brenda Nichols Harper about possible legislative changes which might be enacted to require that monies earned on these accounts be directed to the State Bar for the IOLTA program.

7. New Business

Executive Director Casey reported on the most recent newsletter which had been sent to participating banks. While Ms. Vance was providing services to the IOLTA Program, it was anticipated that a quarterly newsletter would be sent to all participating banks.

8. Next meeting - September 19, 2013, at 11:00 a.m. at The State Bar Center.

9. Adjournment

A motion to adjourn was made and passed by acclamation.

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