

THE WEST VIRGINIA STATE BAR
IOLTA ADVISORY COMMITTEE MEETING
STATE BAR CENTER - CHARLESTON
SEPTEMBER 15, 2011 - 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 September 15, 2011, at The State Bar Center in Charleston. Committee members present for the meeting were Chairperson Flaherty, James Martin, Ken Greear and Bren Pomponio. Professor Charles DiSalvo and Dean Joyce McConnell participated by phone. Charles Loeb, Jr. participated by phone on behalf of Committee member and State Bar Liaison, Anne Werum Lambright. 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 June 16, 2011, IOLTA Advisory Committee Meeting - A motion was made to approve the Minutes, as amended. The motion received a proper second and, upon vote, passed unanimously.
3. Financial Report - Ms. Racer-Troy presented several financial reports she suggested be used to assist the Committee members in understanding and tracking deposits and interest amounts of the Program. She agreed to provide graphs, at the next Committee meeting, which would show receipts and interest payments for the past fiscal year. She and Executive Director Casey reported on their efforts to eliminate wire transfer costs being assessed on many of the deposits going directly into the Operating Account. A discussion was had on attempting to increase the interest rate being paid on the accounts. Mr. Greear suggested meeting with members of the Bankers' Association and with the Community Bankers to "advertise" the importance of the IOLTA program and to solicit the assistance of the member banks in increasing interest rates and decreasing fees on IOLTA accounts. The current balance of the Operating Account was reported at \$76,585.22. The current balance of the Reserve Account was reported at \$59,036.24. Thereafter, a motion was made to set aside \$7,500 in the Reserve Account for the Administrative Fee to be paid to The State Bar for the first quarter of the fiscal year but insure that a minimum amount of \$57,500 be maintained in the Reserve Account. The motion was continued to provide that the balance in the Operating Account, as of September 30, 2011, be used as the figure for distribution to the Program grantees. Following a proper second, the motion passed by a unanimous vote.
4. Report From Legal Services Programs - Mr. Martin reported that the major issue facing Legal Aid continued to be Congressional debate of funding provided through the Legal Services Corporation. A discussion was had on the need to advise grantees of the Program of anticipated continued funding cuts. Mr. Martin agreed to assist Ms. Racer-Troy in providing graphs to grantees, with the September quarterly checks, to make them aware of the current financial situation of the Program. Mr. Pomponio reported that Mountain State Justice was advertising for a new position.

5. Report From Special Grantees - Professor DiSalvo reported that WV CASA Network had served over 1,200 children in the past quarter. Unfortunately, the Lewis and Upshur County CASA office had just been closed by the national organization. A self-assessment of the program had recently and successfully been completed. A Benedum grant for software had just been received. The Appalachian Center for Law and Public Service was continuing its Street Law program from last spring and would soon deliver a workshop on the program. A pro bono partnership program with the Steptoe and Johnson law firm was begun which was anticipated to include a publication regarding dealing with abandoned homes. ChildLaw Services of Mercer County is serving 319 children in its open cases. Approximately, 20 new clients were being obtained each month. The Program was continuing to do fund raising. West Virginia Senior Legal Aid had had a summer law student intern who had worked on two special projects. The program had recently conducted several elder law seminars. The West Virginia Fund for Law in the Public Interest anticipated another post graduate fellowship and more summer fellows. Community tax credits continued to be available. Dean McConnell advised the members of the Committee that Professor DiSalvo's programs had been recognized by the national magazine for work in the public interest field and was in the top 15 programs nationally.

6. Old Business -

A. Discussion of Possible Revisions to Operating Regulations - Executive Director Casey reported on preliminary discussions with the Court which might result in revisions to the IOLTA Operating Regulations to require out of state counsel transacting business in West Virginia, through pro hac vice admissions, and those conducting in-state property transactions to maintain IOLTA accounts within the State.

B. Discussion of request for indemnity from The State Bar/IOLTA Program for trust residuals paid into the IOLTA Reserve Account - Chairperson Flaherty reported on the request received for The State Bar and/or the IOLTA Program to indemnify any trust, and the administrator of any trust, making a transfer of unknown residuals from a trust account into the IOLTA reserve account. A discussion was had on the possibility of including indemnity language, which was not contained in the current, proposed revision to Rule 1.15, in the revised Rule before submission of the same to the Court.

C. Discussion of Second Proposed Amendment to Rule 1.15 - Discussion of including indemnity language in a third, proposed revision to Rule 1.15 continued. A motion was made to suggest to the State Bar Board of Governors that indemnity language be added. The motion received a proper second and, upon vote, passed unanimously. Mr. Martin agreed to draft proposed language and review the same with Chairperson Flaherty. Upon approval of the proposed addition, Executive Director Casey agreed to submit the language to Mr. Wallace, with the request that he add the same to his second proposed amendment, which would be submitted to the State Bar Board of Governors for approval at the Board's October meeting.

Ms. Troy reported on her continuing contacts with Rich McCune's office and BB&T to resolve issues related to the incorrect transfer of interest monies by BB&T to Mr. McCune, rather than to the IOLTA Program. A motion was made to authorize Executive Director Casey to demand from BB&T the full amount of interest which could be proven from Mr. McCune's

records, without the need for further discussion by the Advisory Committee. The motion received a proper second and, upon vote, passed unanimously.

7. New Business - A discussion was had on whether the chair of the Access to Justice Commission and/or Access to Justice Foundation should have a seat on the IOLTA Advisory Board. Mr. Baker agreed to look into how seats on the IOLTA Advisory Committee, when the Committee was a part of the Bar Foundation, were determined and report to the Advisory Committee at its next meeting.

8. Next Meeting - The next meeting of the IOLTA Advisory Committee will be held on December 15, 2011 at The State Bar Center in Charleston. Professor DiSalvo and Dean McConnell advised that, due to prior commitments, they would not be able to participate in that meeting.

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

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