

THE WEST VIRGINIA STATE BAR

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May 21, 2014

Rory Perry, Clerk
Supreme Court of Appeals of West Virginia
1900 Kanawha Boulevard, E. – Room 317
Charleston, WV 25305

RE: State Bar Administrative Rule 10

Dear Mr. Perry:

The West Virginia State Bar's IOLTA Advisory Committee has proposed, and the West Virginia State Bar's Board of Governors has adopted and presents, the following comments to the Court regarding State Bar Administrative Rule 10:

Rule 10.06 Lawyer Instructions to IOLTA Account Institution

An additional subsection that adds language specifying that, in addition to a violation of Rule 1.15 of the Lawyer Disciplinary Rules for failure to comply, the Bar may impose an administrative fine for failure to follow this rule. This suggestion is made to clarify that there are penalties for failure to follow this rule.

Rule 10.09 Disposition of IOLTA Funds Whose Owners Cannot Be Located or Cannot Be Identified

1. The insertion in subsections (a), (b) and (c) the following after the word "When" and in subsection (d) after the words "\$500 or less"

"an executor, administrator, personal representative, administrator c.t.a, curator of the estate, administrator de bonis, or ancillary administrator or"

This suggestion is made to give guidance and to include all possible entities who/which might be charged with the responsibilities of this rule.

2. A typographical correction in subsection (d) changing Rule 10.08 to 10.09. Using the provisions of the 10.08 concerning overdrafts makes no sense in this context.

Rule 10.10 Distribution of IOLTA Funds by the State Bar

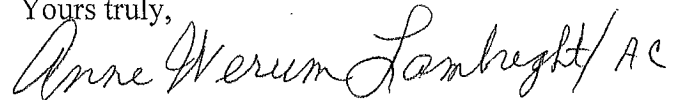
Deleting subsections (b) and (c) and inserting in lieu thereof:

“(b) in accordance with the terms and conditions of the currently in effect Order of the West Virginia Supreme Court of Appeals governing the proper distribution, use, limitations and reporting requirements for recipients of IOLTA funds. Any funds distributed by the State Bar pursuant to this Rule may not be used by the recipient organizations to support any lobbying activities.”

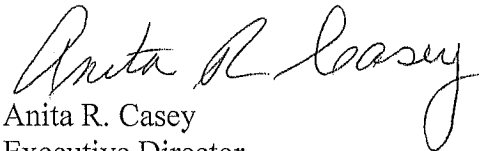
This suggestion is made to facilitate changes made in name or organization of the grantees or to permit the Court to change its distribution formula by Order rather than going through the lengthy process of a rule change.

The IOLTA Advisory Committee and the West Virginia State Bar Board of Governors appreciate your attention to this matter. Should you have any questions, please do not hesitate to contact Anne Werum Lambright, Chair of the West Virginia State Bar’s IOLTA Advisory Committee - phone (304)235-1938, email: awlambright.wvbar@gmail.com; or Anita R. Casey, Executive Director of the West Virginia State Bar - phone (304)553-7220, email: caseya@wvbar.org.

Yours truly,



Anne Werum Lambright, Chair
West Virginia State Bar
IOLTA Advisory Committee



Anita R. Casey
Executive Director
West Virginia State Bar

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cc: Members of IOLTA Advisory Committee
Members of State Bar Board of Governors
Steven Canterbury, Administrative Director – Supreme Court of Appeals of WV

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